

Environmental Victimology in Indian Jurisprudence

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Abstract

In view of the varied kinds of emerging wrongs/crimes the legal injury suffered by an individual, community or non-human due to environmental crime is referred to as Environmental Victimology. This study aims to find out the development of environmental victimology in India, which means through this study the institutional response pertaining to protection of victims of environmental crime in India would be traced out. The present study is an attempt to find how has the Indian legislature and judiciary perceived a person or community who has suffered a legal injury due to environmental crime i.e. whether they are considered as victim as defined under sec. 2w(a) of the Criminal Procedure Code, 1973 or a victim under specific environmental legislations or a person whose fundamental right has been infringed thereby providing a remedy under the Indian Constitution. Finding the answer to the above questions raised would help in determining the scope of environmental victimology in India.

Key words: Victimology, Crime, Victim, Environmental Victimology, Environmental Pollution

I. Introduction

The study of victim and victim rights has gained a considerable attention in the present era. The concept of victim and protection of victim's right has been well recognized by the legislature and the judiciary. The concept of victim and its related concepts do not require much introduction. Yet, with the development of science and technology, industrialization and globalization where the world is getting connected thereby making distance negligible in terms of trade, commerce and economics, the traditional victim typology divided basically into 'victim of crime' and 'general victim' needs a reconsideration. With the victim becoming

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an integral part of the criminal justice system the stereotypical view of victim seems to be incomplete. In general parlance a victim is understood to be a person or communities, who has/have suffered a legal injury because of an act or omission of some other person or agency. In view of the varied kinds of emerging wrongs/crimes the legal injury suffered by an individual, community or non-human due to environmental crime is referred to as Environmental Victimology.

This study aims to find out the development of environmental victimology in India, which means through this study the institutional response pertaining to protection of victims of environmental crime in India would be traced out. The present study is an attempt to find how has the Indian legislature and judiciary perceived a person or community who has suffered a legal injury due to environmental crime i.e. whether they are considered as victim as defined under sec. 2w(a) of the Criminal Procedure Code, 1973 or a victim under specific environmental legislations or a person whose fundamental right has been infringed thereby providing a remedy under the Indian Constitution. Finding the answer to the above questions raised would help in determine the scope of environmental victimology in India.

II. Definition of the Term ‘Crime Victim’

Theoretically the term ‘victim’ or the phenomenology of ‘victim of crime’ can be traced back to the year 1937 when Benjamin Mendelsohn initiated the study of victims of crime and made the society acquainted with the term ‘Victimology’ in 1947, which generally refers to the scientific study of victims and victimization². The study of victim and victimology later on was found in the writings of Von Hentig in the year 1948 in his book: ‘The Criminal and his Victim’.³ Historically, the term is said to be derived from the Latin term *victim* who was generally referred in the context of those individual or animals that were sacrificed before

² David Sarah Ben, ‘Needed: Victim’s Victimology, Victimology at the Transition From the 20th to the 21st Century, Essays in Honor of Hans Joachim Schneide, Shaker Verlag in cooperation with WSVP, WORLD SOCIETY OF VICTIMOLOGY PUBLISHING, MONCHENGLADBACH, 2000.

³ David Sarah Ben, ‘Needed: Victim’s Victimology, Victimology at the Transition From the 20th to the 21st Century, Essays in Honor of Hans Joachim Schneide, Shaker Verlag in cooperation with WSVP, WORLD SOCIETY OF VICTIMOLOGY PUBLISHING, MONCHENGLADBACH, 2000.

the god/deity in order to please the god/deity.⁴ Victim in a general sense pertains to a person who has been subjected to a loss, harm, injury or suffering which is recognized by law which means for which the law provides for a remedy, the condition being that the loss, harm, injury or suffering must have been caused by an act or omission of some other person or agency. Hans Joachim Schneider a German Criminologist has described a victim as either an individual or an organization, he moral order” or the legal system of a state which is threatened, harmed, or destroyed by an action⁵.

There is a lack of standard definition of the term ‘crime victim’. The word ‘crime victim’ represents generally a person who has been affected i.e. suffered a loss, injury, harm or damage due to the commission of an act which is defined in the criminal law of that country as an offence or crime i.e. a person who has been victimized due to a traditional/conventional crime.

The U.N. Declaration on Justice to Victims of Crimes and Victims of Abuse of Power, 1985 has defined the Victim as:

“‘Victims’ means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.”⁶

“A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the

⁴ Ferguson Claire and Turvey Brent E., *Victimology: A Brief History with an Introduction to Forensic Victimology*, https://booksite.elsevier.com/samplechapters/9780123740892/Sample_Chapters/02~Chapter_1.pdf, (visited on May 23, 2022, at 3:30 PM).

⁵ Lindgren Magnus And Nikolić-Ristanović Vesna, *Crime Victims International And Serbian Perspective*, Published by: Organization for Security and Cooperation in Europe, Mission to Serbia, Law Enforcement Department, Ch. 02: What is a Crime Victim?, ISBN 978-86-85207-75-4., 1st ed., 2011, at pg. 19

⁶ Resolutions adopted on the reports of the Third Committee, 40/34. *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, <https://www.unodc.org/pdf/rddb/CCPCJ/1985/A-RES-40-34.pdf>, (visited on May 26, 2022, at 11:00AM).

victim. The term 'victim' also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization."

This definition is an exhaustive definition encompassing not only an individual or collective group of person who have suffered harm, loss or infringement of fundamental rights through an act or omission which is in violation of criminal laws of the member states or laws proscribing criminal abuse of power but also, includes the immediate family or dependants of the direct victim who have suffered harm intervening to assist the victim in distress in the course of prevention of a person from victimization. This section considers a person harmed or who has suffered a loss or legal injury as a 'crime victim' irrespective of the fact whether there has been identification, prosecution or conviction of a perpetrator or not. The definition provided under this international instrument clearly specifies that, there has to be an criminal act or omission done resulting into a legal injury to a person individually or collective to be brought within the purview of the term 'crime victim'. So it is the act or the omission, through which a person is harmed or suffered the legal injury, which would be taken into consideration while determining whether that person is a victim or not, because if the act or the omission which resulted into the harm or the legal injury to the person does not fall within the definition of an offence/crime the victim would not be considered a 'crime victim'.

In Indian the Indian Penal Code, 1860 provides the different kinds of crime and its respective punishment, whereas, the Criminal Procedure Code, 1973 provides for the procedure for the trial of the criminal cases along with the jurisdiction and powers of the courts and other procedural matters related to trial of criminal case. There term 'crime victim' has not been specifically defined by any of the above criminal laws. The Criminal Procedure Code, 1973 defines the term 'victim' under section 2(wa) as:

"victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been

charged and the expression "victim" includes his or her guardian or legal heir"⁷.

This definition provided under section 2(wa) of the Criminal Procedure Code, 1973 is not specific but may be regarded as a general definition of the term victim, as reading the definition it is clear that to be a victim under this Act, one has to be a person who has suffered any loss or injury due to some act or omission for which some other person must have been charged and the guardian and legal heir of the direct victim may also be considered as a victim depending on the facts and circumstance so a particular case. The term accused person used within the section only gives a hint that this section talks about a crime victim as there is no direct use of the term crime, violation of criminal law or offence made in this provision.

On every occasion of discussion on the definition of victim generally and crime victim or any other type of victim specifically in the Indian context is interpreted by referring to the definition provided by the Criminal Procedure Code, 1973 and the definition provided under the provision of the U.N. Declaration on Justice to Victims of Crimes and Victims of Abuse of Power, 1985. Though the 'term 'crime victim' has not been categorically defined in either an international instrument or the criminal law of the country yet it cannot be said that due to lack of a specific definition of the term, the victim's of crime are not been provided adequate protection or justice. So, the term 'crime victim' is open to wide interpretation of the judiciary may be depending on the facts and circumstances of the case.

III. Victim of Environmental Crime in India

With the growing concern about the degradation of the environment and its protection the State's have made laws in order to appreciate what can and cannot be sustained, regulated and in certain circumstances are also proceeding, towards criminalization of environmental damage. The result of such concern was the 12th United Nations Congress on Crime Prevention and Criminal justice (2010)⁸,

⁷ Section 2(WA) of The Criminal Procedure Code, 1973; Ins. by Act 5 of 2009, s. 2 (w.e.f. 31-12-2009).

⁸ Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, 19 April 2010, A/CONF 213/18, para 14 [Salvador Declaration]: We acknowledge the challenge posed by emerging forms of crime that have a significant impact on the

where it was acknowledged by the Member States of the International Community that the crimes evolving in the present era are posing a significant impact on the environment. Therefore, the Members States were called for to deliberate on this issue and share best practices. As environmental crime affects the society at large and the harm caused by such crime is not generally immediate and gets diffused therefore usually remains undetected for a long period of time. One of the major drawback of environmental crime is it is generally a “victimless” crime as the damages are assessed on the bases of harm caused to the environment and not specifically a person or individual. This is the reason that victims of environmental crime remains unrecognized and outside the purview of victimology. It therefore needs an analysis as to how the Indian judiciary has perceived the victims of environmental crime and whether they have been successful in protecting their rights irrespective of the harm done to the environment. This brings out another issue which needs a research is; whether a person harmed individually or collectively can be truly fall within the definition of victim of crime, knowing the fact that most of the environmental harm is state sanctioned.

IV. Legislative Protection of Victims of Environmental Crime in India

In India there are a number of central and state legislation which focuses of the diverse areas of environmental protection⁹ with different aims and objective as per the requirement of the law yet, the ultimate goal of all these laws is to protect the environmental pollution and further the goals of sustainable development. A

environment. We encourage Member States to strengthen their national crime prevention and criminal justice legislation, policies and practices in this area. We invite Member States to enhance international cooperation, technical assistance and the sharing of best practices in this area. We invite the Commission on Crime Prevention and Criminal Justice, in coordination with the relevant United Nations bodies, to study the nature of the challenge and ways to deal with it effectively; Skinnider Eileen; The International Centre for Criminal Law, Reform and Criminal Justice Policy, Victims of Environmental Crime – Mapping the Issues; March 2011, www.icclr.law.ubc.ca.

⁹ National Green Tribunal Act, 2010 • The Air Act, 1981 • The Water Act, 1974 • The Environment Protection Act, 1986 • The Wildlife Protection Act, 1972 • Hazardous Wastes (management, handling and trans-boundary) Rules, 2008 • The Forest Conservation Act, 1980, Public Liability Insurance Act, 1991 • Biological Diversity Act, 2002 • Noise Pollution (regulation and control) Act, 2000

brief overview of the legislative provisions dealing with the nature and objective of the few environment protection laws would provide a clear idea whether the legislature intends through enacting law on environment to protect only the environment or also providing remedy protecting the rights of the victim of environmental crime.

A. The Environment (Protection) Act, 1986

This Act is a general legislation. The major objective of this Act is to enable co-ordination of had been enacted to “enable co-ordination of activities of the various regulatory agencies, creation of an authority or authorities with adequate powers for environmental protection, regulation of discharge of environmental pollutants and handling of hazardous substances, speedy response in the event of accidents threatening environment and deterrent punishment to those who endanger human environment, safety and health”¹⁰. This Act is penal in nature as its provides under section 15 punishment of five years and a fine which may be extended to one lakh rupees or with both for the failure to comply with or contravention of the provisions of this Act, or the rules made thereunder or any order or directions issued thereof. This Act further provides for additional fine of rupees Five thousand per day for the continuing violation. This Act provides penal provision for not only an individual who contravenes the provisions of this Act but also the companies and government departments¹¹.

B. National Green Tribunal Act, 2010

Having felt an “urgent need to establish a specialized agency to deal with the multidisciplinary matter related to environmental cases, and especially¹² in view of the mass disaster occurring due to manufacturing and handling of hazardous substance and applying the principles of strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal has been established through this Act. This agency aims at providing for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment”. On going through the objective of this Act it can be claimed that by providing a separate institution to

¹⁰ The Environment (Protection) Act, 1986; Statement of Objects and Reasons.

¹¹ Section 15, 16 and 17 of The Environment (Protection) Act, 1986.

¹² The National Green Tribunal Act, 2010 Statemnet of Objects and Reasons.

deal with matters of environment pollution somewhere the rights of the victim of environmental damage are being protected to a great extent. Yet on going through the powers provided to the tribunal constituted under this Act¹³ it can be seen that the tribunal is empowered to order relief, compensation restitution of property or restitution of the environment of such area or areas as a remedy for the loss suffered due to the environmental damage. This makes it clear that the tribunal is not empowered to impose criminal liability as all the remedy for environmental degradation are civil in nature.

C. The Forest Conservation Act, 1980

The Forest Conservation Act, 1980 was enacted to check further deforestation recognizing the fact that deforestation and ecological deforestation has become a social evil and continuing deforestation and ecological imbalances needs to be prevented. Along with the other necessary laws for prevention of deforestation, the Act under Section 3A provided for penalty for contravention of the provisions of this Act, which is a mere punishment of fifteen days simple imprisonment. This criminal liability may be imposed of governmental authorities and departments also.

D. The Wild Life (Protection) Act, 1972

In view of the declining wild animals and birds; the rapid extinction of some wild animals and birds; and to improve the protection afforded to wild life in National Parks and Sanctuaries, the legislature enacted the Wild Life Protection Act, 1972. The major objectives of this Act were to constitute a Wild Life Advisory Board for each State; regulate hunting of wild animals and birds; lay down the procedure for declaring areas as Sanctuaries, National Parks, etc.; regulate possession, acquisition or transfer of, or trade in wild animals, animal articles and trophies and taxidermy thereof; and to provide penalties for contravention of the Act.

E. The Air (Prevention and Control of Pollution) Act, 1981

To combat the problems of air pollution caused due to increased industrialization and to provide an integrated approach to tackling the problems of environmental problems related to pollution, the Air (Prevention and Control of Pollution) Act has been enacted. This Act aims primarily for the proper implementation and

¹³ Section 15, 16, 17 and 18 of the National Green Tribunal Act, 2010.

enforcement of anti-pollution laws and to evade ecological imbalance and its evil effects. Chapter VI of this Act provides under section 37, 38, 39, 40 and 41 provides for penal provisions for contravention of the various provisions of this Act imposing liability on individuals, companies and even government departments.

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

With the objective to prevent and control water pollution and for the maintenance or restoration of wholesomeness of water, the water (prevention and control of pollution) Act, 1974 was passed. In Chapter VII from section 44 to section 49 of this Act prescribes the punishment for the contravention of the various provisions of this Act, including the liability may be imposed on companies and government departments.

The major environmental legislations are penal in nature and have specifically prescribed punishment or fine or both as a measure of remedy for the violation of the provisions of those Acts, which clarifies that the intention of the legislature was to create a deterrence and provide remedy accordingly. In India compensation to the victim is a recognized form of remedy¹⁴ and the courts have been empowered to award compensation to the victim for the loss or injury suffered. The fact remains that in India environmental crime has not been recognized as a crime specifically and for the degradation or pollution of environment the general trend is to file a case under Article 32 or 226 of the Constitution which provides either for a direction to be passed by the court to stop the pollution or take measures for its prevention or provide remedy in the form of compensation but hardly are the matters of environmental crime filed in the criminal courts seek punishment as the remedy for the crime committed.

¹⁴ Section 357A of The Code of Criminal Procedure Code, 1973; 357. Order to pay compensation.

(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied- (a); (b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;

V. Landmark Judicial Observation in Environmental Pollution Cases

The plethora of cases decided by the Indian judiciary fulfilling its constitutional obligation to protect the rights of people and provide them a clean and healthy environment establishes the fact that environmental law is now a most vital and expeditiously growing branch of law. The major development in the branch of environmental law in India is through judicial pronouncements rather than by the legislative action. The Courts have widened the scope of the laws protecting and controlling the environmental pollution by interpreting the laws comprehensively. Though the judiciary has contributed immensely in the protection, prevention and preservation of the environment yet there is a very negligible role of the court in imposing criminal liability in cases of environmental pollution cases despite the fact that most of the laws protecting the environment are penal in nature.

To find out the judicial outlook environmental crime it is essential to analyze certain landmark judgments related to environmental law. The Indian judiciary is always appreciated for its remarkable achievement in the protection of environment either by applying the law as it is or by filling the gap left by the legislature through formulation of new principles and doctrines for e.g. in the case of *M.C. Mehta v. Union of India*¹⁵ the then Chief Justice Bhagwati; had remarked:

*“we have to evolve new principles and lay down new norms, which could adequately deal with the new problems which arise in a highly industrialized economy. We cannot allow our judicial thinking to constrict by reference to the law as it prevails in England or for the matter of that in any other foreign country. We no longer need the crutches of a foreign legal order.”*¹⁶

This pronouncement by the then Chief Justice proves that protection from, preservation of and prevention of environment pollution and ecological imbalance was a issue of concern and the judiciary though its activism has upheld its duty to affirmatively in this regard.

Let us take the example of few landmark decisions of environmental degradation where the judiciary has failed to impose a criminal liability:

¹⁵ A.I.R. 1996 S.C. 1466.

¹⁶ A.I.R. 1996 S.C. 1466.

M. C. Mehta v. Union of India & Ors.¹⁷:

This case is related to a major leakage of oleum gas which occurred in one of the units of Shriram Foods and Fertilizer Industries. A large number of person comprising both of workman and public dead due to inhalation of this gas. Within two days of the first day there was another leakage from the same industry due to gas spill because of a minor hole in the gas tank. A quick response to this disaster was the order passed by the Delhi Administration under sub-section(1) of section 133 of the Code of Criminal Procedure Code, to cease work in this industry. The present Public Interest Litigation was filed Mr. MC Mehta under Article 32 of the Constitution seeking from the highest court of the land to order for the closure of the Industry and compensation for the aggrieved. The Hon'ble understanding the seriousness of the issue involved in the case and similar other cases evolved anew doctrine i.e. the rule of absolute liability.

The Bhopal Gas Tragedy Case¹⁸

This case is the result of the massive gas leakage caused in the MIC storage tank of one of the plant of Union Carbide Corporation situated in Bhopal, on the 2 and 3 December 1984. The Union Carbide Corporation was a New York company established in India holding 50.99% shares where the Insurance Corporation of India and Unit Trust of India held 22% of the company share. Therefore, the Indian Government was a joint tort-feasor. To compensate the victims of the gas disaster the Bhopal Gas Disaster (Processing of Claims) 1985 law was passed by the Indian Government. This was a measure to secure that the victims claims arising out of the disaster was decided speedily, effectively and equitably. In this case the constitutional validity of the Bhopal Gas Disaster (Processing of Claims) 1985 was challenged on various grounds. The court upheld the validity of the said Act and had affirmed that "The magnitude of the gas leak disaster in which hundreds lost their lives and thousands were maimed, not to speak of the damage to livestock, flora and fauna, business and property, is an eye opener."

¹⁷ 1987 AIR 965.

¹⁸ Cahan Lal Sahu v. Union of India & Ors. 1990 AIR 1480.

Municipal Corporation, Ratlam v. Shri Vardhichand & Ors.¹⁹

This is a case related to the fact that the residents of a residential locality had filed a case under Section 133 of the Criminal Procedure Code before the Sub-divisional Magistrate averring that the municipal corporation had failed to fulfill its primary objective of maintenance of sanitary facilities on the roads, public conveniences for slum dwellers, prevention of discharge from the nearby alcohol plant into the public streets etc. which was a statutory obligation of the corporation. Finding the facts true the Magistrate had ordered the Municipal Corporation to provide the basic amenities and to stop the nuisance and warned the corporation that failure to comply with the order would result into prosecution under section 188 of IPC. The order was challenged in the session court and then upheld in the High Court which appeared as a special leave petition before the Apex Court, questioning whether a Court can by affirmative action compel a statutory body to carry out its duty to the community by constructing sanitation facilities at great cost and on a time-bound basis? Therefore, this case which was initially a criminal case turned to be a case under the constitutional law questioning the power and jurisdiction of the courts. The beauty of this judgment lies in the fact that the court has agreed that under our judicial system is a beautiful system which is frequently a luxury and getting high quality justice only when parties can surmount the substantial barriers which this system erects. Therefore, the common man should not be driven to file public interest action but what needs to be done is to follow the do's and don't's found in the Directive Principles. The court in this case affirmed that:

*“The officers in charge and even the elected representatives will have to face the penalty of the law if what the Constitution and follow-up legislation direct them to do are defied or denied wrongfully. The wages of violation is punishment, corporate and personal”*²⁰

M.C Mehta v. Union of India²¹

In this case, the court awarded “exemplary damages” due to the degradation caused to the environment by the hotel construction.

¹⁹ 1980 AIR 1622.

²⁰ 1980 AIR 1622; para 115.

²¹ AIR 2002 SC 1515.

S Jagannath v. Union of India and Ors.²²

The issue in this case was regarding a private commercial aquaculture of shrimps which was degrading the surrounding mangrove. The court ordered the closure of the commercial aquaculture of shrimps. The court used the “polluters pay” principle and ordered compensation to be paid for the environmental damage caused.

M.C Mehta v. Union of India²³

The degradation of the famous monument *Taj Mahal* was in question in this case. The court took a firm stand and ordered the industries to stop using industrial fuel and switch to natural fuel. Failing to do which, they were warned to relocate.

Deepak Nitrite v. State of Gujarat²⁴

This case was a PIL regarding discharge of effluents in the river and causing water pollution. The court observed that committees need to be formed which would evaluate what is the extent of damage being caused and in case of victims what is the norm to be followed for compensation. The court again relied on the “polluters pay” principle.

Uttar Pradesh Pollution Control Board v. Mohan Meaking Ltd. And Ors.²⁵

In this case, a company manufacturing liquor was accused of discharging effluents in the Gomti River beyond reasonable levels. The court states that cases of air and water pollution cannot be taken lightly. A message must be sent to the all people concerned. The people involved in such pollution through effluent discharge are not careful about the injury it is causing to public health as well as the environment. When it comes to company, every person in charge of the company would be liable for punishment.

In the other landmark judgments like *Rural Litigation and Entitlement Kendra, Dehradun v. State of Uttar Pradesh (1985)*; *M.C Mehta v. Union of India (Ganga case)1988*; *Indian Council for Enviro-Legal Action v. Union of India (1996)*; *Animal Welfare Board of India vs. A. Nagaraj and Ors. We find*

²² (1997) 2 SCC 87.

²³ (1997) 2 SCC 353.

²⁴ (2004) 5 SCALE 612.

²⁵ [2000] 101 Comp Cas 278 (SC).

that PIL were being filed seeking compensation and passing of necessary orders and direction were filed and affirmed by the Courts.

VI. Conclusion

A question which arises in cases specially of environmental wrongs resulting into death of persons specifically and public in general, like in the case of Oleum Gas leak case and the Bhopal gas tragedy is; why is there no criminal case filed despite the fact that there are provision in the Indian Penal Code²⁶ dealing with public safety, health, nuisance and negligence which provides financial sanction, imprisonment or both as a form of remedy and being public nature of crime can be brought against the state too. There have been cases like in the case of *Sansar Chand v. State of Rajasthan*²⁷ where the court has made critical observations and displayed zero-tolerance for environmental offences yet in general environmental pollution cases the court fail to impose criminal liability. In the line of cases discussed above it can be concluded that, for environmental law cases the remedy seeked is generally under the Constitution of India though the application of Article 32 and 226 as a Public Interest Litigation contending the violation of the fundamental right to life and personal liberty guaranteed under Article 21; generally no criminal cases is filed for violation of the provisions of the environmental legislations basically under the Environment (Protection) Act, 1986 though it provides for punishment not only to individual but also companies and Government Departments; the victims of environmental crime are basically invisible in environmental jurisprudence in India, the basic motive of the legislature and the Judiciary being bound by the nature of remedy seeked before it is 'damage control' rather than creating deterrence for commission of such offences, though the law proposes stringent fines and imprisonment but that remain in oblivion. It is important with growing nature of environmental crimes and its effect on the environment and ecological balance that the public spirited

²⁶ Section 268 to-Section 294-A • 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.

²⁷ 2010 (10) SCC 604.

people, lawyers, academicians, the legislature and the judiciary try to take steps to impose criminal liability for the environmental offences committed, thereby creating deterrence in the minds of the environmental criminals and provide adequate remedy to the victims thereof. Hence, it can be concluded that the scope of environmental victimology in the criminal sense of the term 'victim' is yet to gain importance in the Indian environmental jurisprudence.