

Green Criminology an Overlooked Area : A Threat to our Future

Dr. Tejaswi Avhad
Incharge Principal
Balaji Law College
Tathawade, Pune

Abstract:- Understanding and studying green criminology is essential given the growing number of environmental issues, particularly in India, such as pollution, climate change, deforestation, water scarcity, and habitat destruction. This is because the study of this field helps in identifying the criminal activities that may lead to these issues and their effects on the ecosystem and environment. The study of environmental law that focuses on offenses against the environment is known as "green criminology." This topic looks at and investigates how human activity might degrade the environment and hurt its inhabitants in the process. This paper addresses the concept of 'Green Criminology', which is concerned with environmental crimes and Earth jurisprudence. Crimes against the environment are rapidly growing as a result it is important to understand function, core areas and significance of green criminology. Humans can cause lasting environmental damage through both development and ignorance of nature. The lack of appropriate legislation in this regard also makes it possible for opportunists to harm the environment. The punishment imposed for environmental violations is likewise quite light, giving criminals the option of avoiding prosecution by paying a small sum of money. The researcher examines the impact of environmental crimes and also examine legal barriers, providing a comprehensive overview of India's legal framework in environment. However, strict legislation and government implementation are necessary for this to occur. Countries must work together to protect the environment and follow principles outlined in international environmental conventions.

Keywords:- Green Criminology, Environment, Green Crimes, Justice, Climate Change, Earth Justice.

I. INTRODUCTION

Green Criminology examines environmental harms and crimes, including environmental law and policy, corporate environmental crimes, and environmental justice, from a criminological perspective. Michael J. Lynch coined the phrase "green criminology" in 1990 and built on it in Nancy Frank and Michael J. Lynch's 1992 book, *Corporate Crime, Corporate Violence*[1]. The book explored the political and economic roots of green crime and injustice, as well as the scope of environmental laws. In 1998, Piers Beirne and Nigel South produced a special issue on green criminology in the

journal *Theoretical Criminology*, which led to the term's widespread use[2].

Green Criminology differs from traditional approaches in two areas:

- This approach examines the causes and consequences of environmental harm, regardless of whether it is lawful.
- Unlike most criminology, it focuses on harm to animals and plants in ecosystems.

Since crimes are social constructs with no ontological basis, they are defined as harmful activities or behaviors that society has made illegal and that must be punished in accordance with the criminal law of the state. These defined crimes include offenses against someone's body, reputation, or property, and are dealt with by the criminal justice system by punishing the perpetrator. Street crimes, or crimes committed by someone against another person or their property, have been the primary focus of criminology.

The incorporation of a green viewpoint was a turning point in the development of the idea of green criminology around the turn of the millennium[3]. While trying to define green criminology, two different interpretations of the term "green" were offered: environmental justice and the idea that corporations were mostly to blame for environmental crimes; as a result, both harm and crime are essential to green criminology[4].

Although radical and critical in its goal of incorporating ecological crimes within the discipline of criminology, green criminology is a subfield of criminology[5]. Street crime was the primary emphasis of existing criminology theories, which sought to explain, quantify, theorize, and comprehend criminal conduct. It was discovered that these ideas were mostly focused on explaining the motivations for crimes done by individuals against other people[6]. The inability of the current theories of criminology to account for environmental effects was demonstrated by the attempts of green criminologists to integrate green crimes within the domain of classical criminology[7]. The goal of the school of green criminologists' research and endeavors has been to provide a theory that can be used to successfully handle green crimes.

II. FUNCTION OF GREEN CRIMINOLOGY

A. Several Sociological Perspectives have been put out to Comprehend the Function of Green criminology:

- According to certain criminologists, we should only concentrate on the people and organizations that violate the environmental regulations that have already been established by national and international organizations. These offenses are referred to as Primary Green Crimes. Secondary Green Crimes are offenses that arise from disobeying laws intended to safeguard the environment.
- According to other criminologists, every action that negatively impacts the environment should be the main focus of criminology. This implies that it will encompass those actions that are not unlawful as well.

Green criminology may have many definitions and theories. However, in reality, it is an assault on a person's conscience. The mirror is attempting to display humanity's nasty side, which we willfully and persistently ignore. The focus is on the behaviors that need to be considered crimes since they are the slow poison that is steadily and continuously destroying Mother Earth.

B. Core areas of Green Criminology:

➤ Ecological Justice:

Evaluating human impact on ecosystems, which are made up of both living and non-living elements, is necessary for ecological justice. For example, damage to mountains, rivers, forests, and the creatures that live there is a cause for concern. It's about recognizing the harm that humans are causing to the environment and taking action.

➤ Environmental Justice:

It is primarily concerned with people and the inequalities and conditions that exist for various demographic groups, including children, the impoverished, the weak, and indigenous people.

➤ Species Justice:

This element focuses on how animals are treated. It handles issues like ecocide, which is the taking of human life combined with harm to the health of other species, and justice.

C. Significance & Necessity of studying Green Criminology:

Green criminology is important because it advocates for the natural world and the environment. It aims to prevent environmental harm and protect the earth from it. By combining it with academia, it seeks to provide the future generation a fresh outlook on the world. The focus is on adopting an ecocentric perspective that considers our interdependence with the natural world and promoting eco-justice. Given that we know that climate change is happening and that humans are to blame; green criminology examines why it is still happening. It introduces concepts like ecocide, which is the destruction of the ecosystem, and designates certain companies and individuals as "carbon criminals."

Green criminology investigates issues such as water theft and ocean plastic pollution, in addition to climate change. This article connects environmental challenges to broader social issues and provides strategies to mitigate and prepare for future changes. Green criminology seeks to understand the impact of human behaviour on the environment and identify potential solutions. Green criminology is a relatively new phrase, coined around 30 years ago. However, its importance has grown due to its direct impact on our environment.

Climate change is a major subject that is often overlooked. This persistent issue is constantly transforming the earth, with regular reports of extraordinary superstorms, typhoons, droughts, and floods. The dynamics are radically changing our common reality. Green criminology addresses the impact of industry, such fracking, on carbon emissions, environmental degradation, and global warming. Green criminology views climate change as ecocide, implying the annihilation of everything valued and known.

We must discuss eco justice and adopt an eco-centric perspective on our connection with nature. Climate change is a human-caused phenomenon, Criminology can identify specific industries and individuals responsible for environmental destruction through concepts like ecocide and carbon criminals.

Humans are systematically ruining the earth. Green criminology addresses environmental harm. The study examines not only climate change, but also plastics in the ocean and water theft. Water theft is increasingly linked to droughts, which in turn are linked to climate disruption and change. Green Criminology explores the relationship between environmental changes and societal interventions to mitigate and adapt to them.

The United Nations Crime and Justice Research Institute defines 'Environmental Crimes' as illegal activities such as wildlife trafficking, ozone layer smuggling, hazardous waste trade, unregulated fishing, and illegal logging. An 'environmental crime' is defined as an act or omission that harms the environment and is clearly prohibited by law.

Environmental crime refers to a wide range of crimes that have negative implications for the environment and human well-being. Infractions include administrative or record-keeping errors, as well as illegal pollution discharges.

D. Aims of Green Criminology:

- Green criminology aims to detect and address environmental damages at both national and global levels.
- Explain the grounds for such environmental violations.
- Once the reasons and causes have been identified, propose solutions.
- Preventing environmental harm for humans, non-humans, and ecological systems.

E. Hindrances of Green Criminology:

- Going beyond criminology to embrace eco-philosophy as a comprehensive answer, Eco philosophy needs shifting from a human-centered mind-set to one that prioritizes ecological.
- Green crimes can be classified under criminology.
- There is little interest in mainstream criminology.
- The field of 'green criminology' has been hindered by value positions within it. Many researchers prefer to be in a neutral value space, while 'green criminology' has a bias towards exposing environmental destruction and criticizing the legal, political, and economic frameworks that allow such activities to occur.
- Fails to provide comprehensive solutions that can be effectively applied.
- It focuses on the political-economic nexus rather than the individual as the cause of environmental degradation.
- Branding Issue - The term 'green' has been a topic of dispute in this discipline. Corporations involved in harmful operations, such as oil extraction and thermal power production, have used green branding to reassure shareholders and consumers about their ecologically beneficial practices.

F. Earth Jurisprudence:

How do we perceive nature internally? This is an important question for humanity to solve. The response to this question will determine the types of environmental laws that will be enacted. Currently, the anthropocentric perspective prioritizes man as the top of the pyramid of living beings, implying that nature exists solely for human consumption and utility. Earth jurisprudence is a methodology that prioritizes the earth system and natural processes[8]. Laws based on this approach are referred to as 'wild law'. 'Earth jurisprudence' refers to a legal philosophy that prioritizes earth systems. Similar to green criminology, this is a perspective and attitude rather than a formal theory.

Green criminology's eco-philosophy encompasses three approaches: anthropocentrism, biocentrism, and ecocentrism. Wild law is based on eco-centrism, which holds that all things in the universe have equal value and moral standing[9]. Hinduism and Jainism appreciate all living things and believe in 'wholeness', which aligns with Mason's theory of earth jurisprudence. Berry's concept of 'great jurisprudence' emphasizes the interconnectedness of all living creatures and the need to consider the earth community as a whole.

Recently, some countries have passed laws and included clauses in their Constitutions to safeguard nature and the environment. In India the High Court used earth jurisprudence to recognize nature's rights and green criminology to make abuses of these rights punishable.

The Uttarakhand High Court awarded River Ganga a living personality, requiring both the State and people to maintain its health and vitality. This decision called for the formation of a Ganga Management Board and designated a number of authorities as the river's parents. This ruling was

based on the same reasoning as the declaration of the Whanganui river as a living person. However, unlike the structures erected to safeguard Whanganui through extensive talks, this judgement was more of a wishful order without any foundation. The Uttarakhand government contested this ruling of the Uttarakhand High Court in the Supreme Court, arguing that flood victims might sue the river's guardians. This argument is fundamentally faulty because the major issue was the protection of rivers, glaciers, and tributaries from pollution [10]. It was also contended that such an order was unsustainable under the law. The High Court aimed to grant the river the right to exist, fulfil its job, and naturally evolve [11]. The Supreme Court temporarily halted the order before overturning the High Court's verdict. Although the Supreme Court did not approve earth jurisprudence, indeed judicial incorporation has begun [12].

G. Contributing Environmental offences:

➤ *Illegal Wildlife Trade:*

Illegal wildlife trade is the world's third-largest criminal activity, after drug and arms trafficking, and it poses a substantial threat to biodiversity survival. Buyers play a crucial role in this crime, and reducing supply and outrageous prices on the illicit market could eliminate it.

Surprisingly, the financial value of a species increases as its status becomes more endangered. Popular species include tropical birds (parrots, macaws), arachnids (particular tarantula species), monkeys (capuchins, chimps, lemurs), and more. Trafficking elephant and rhinoceros ivory for ornamental or traditional Chinese medicine is a serious crime, in addition to selling them as pets.

➤ *Unregulated Logging:*

Unregulated logging for timber, furniture, or agricultural uses is the principal cause of deforestation and constitutes a significant environmental hazard. The destruction of the Amazon rainforest and unregulated tree harvesting for diverse purposes is a serious environmental crime.

➤ *Mismanagement of Electronic Waste:*

Developed nations generate an estimated 50 million tonnes of electronic garbage annually, including computers, TVs, mobile phones, and appliances. Up to 75% of electronic garbage may be illegally transferred to places such as Africa, China, or India. Ghana's waste disposal receives a significant amount of electronic waste from Western countries, indicating a troubling trend.

➤ *Dumping Toxic Waste in Rivers:*

Toxic waste is improperly disposed of in rivers, lakes, and aquifers, a common environmental violation committed by businesses, corporations, and government agencies. Unregulated garbage disposal into the environment can cause pollution and harm local wildlife. This crime not only harms the local species, but also contaminates the land and food chain.

To address environmental concerns, the country has implemented actions to mitigate them. The steps include the following Acts that have been passed: The following laws apply: National Green Tribunal Act, 2010, Air Act, 1981, Water Act, 1974, Environment Protection Act, 1986, Wildlife Protection Act, 1972, Hazardous Wastes (management, handling, and trans-boundary) Rules, 2008, Forest Conservation Act, 1980, Public Liability Insurance Act, 1991, Biological Diversity Act, 2002, and Noise Pollution (regulation and control) Act, 2000.

III. CONCLUSION WITH SUGGESTIONS

Environmental legislation is based on sustainable development, which allows for harm to the environment as long as it is less than the benefit of use. Giving rights to nature and its elements will reorient jurisprudence toward protecting the rights granted to the environment [13]. The punishment inflicted on the community teaches civil society the importance of adhering to rules[14].

International environmental law has been instrumental in establishing environmental rights, but has been hesitant to criminalize environmental misdeeds [15]. Strengthening the international framework for green crimes is important. Currently, international environmental law is anthropocentric, with limited criminalization of green crimes and no focus on earth jurisprudence. The primary goal remains to protect human welfare from environmental harm. Green criminology can boost deterrence and raise awareness of environmental problems, but offers limited punitive flexibility. Incorporating earth jurisprudence fosters a duty-oriented approach to the world and its inhabitants. This concept has the potential to influence human behaviour and ideas. We must safeguard and cherish our loved ones, including both humans and environment.

REFERENCES

- [1]. M Hall, VICTIMS OF ENVIRONMENTAL HARM 5-6 (2013)
- [2]. Hulsman, L.H.C, Critical Criminology and the Concept of Crime, 10 (1) CONTEMPORARY CRISES 63–83 (1986)
- [3]. M.J, Lynch, The Greening of Criminology: A Perspective on the 1990's, 2(3) THE CRITICAL CRIMINOLOGIST 1–4 and 11–12.(1990)
- [4]. M.J. Lynch, and, P.B. Stretesky The Meaning of Green: Towards a Clarification of the Term Green and Its Meaning for the Development of a Green Criminology, 7(2): THEORETICAL CRIMINOLOGY 299 2003.
- [5]. M.J. Lynch and P.B. Stretesky, EXPLORING GREEN CRIMINOLOGY: TOWARD A GREEN CRIMINOLOGICAL REVOLUTION 2014.
- [6]. D.R. Cressey, Criminological Research and the Definition of Crimes, 56(6) AMERICAN JOURNAL OF SOCIOLOGY 546–551(1951).
- [7]. A. Brisman, and , N. South THE GROWTH OF A FIELD: A SHORT HISTORY OF “GREEN” CRIMINOLOGY (2020a).
- [8]. Jack Lampkin, UNITING GREEN CRIMINOLOGY AND EARTH JURISPRUDENCE, 23 (2021).
- [9]. L. Hosken, Reflections on an Inter-Cultural Journey into Earth Jurisprudence, in: Burdon, P.D. (ed) EXPLORING WILD LAW: THE PHILOSOPHY OF EARTH JURISPRUDENCE (2011).
- [10]. The Director of NAMAMI Gange, the Chief Secretary of the State of Uttarakhand and the Advocate General of the State of Uttarakhand were declared persons in loco parentis.
- [11]. Lalit Miglani v State of Uttarakhand & others.
- [12]. Orissa Mining Corporation v. Ministry of Forest and Environment 2013 (V) AD (SC) 289.
- [13]. Carter, Jacob, and Gretchen Goldman, Strengthening Scientific Integrity at the Environmental Protection Agency, Union of Concerned Scientists, 2020.
- [14]. Gagnon , S.C. Thompson, and M.A. Burton, Eco centric and Anthropocentric Attitudes Toward the Environment, 14(2) JOURNAL OF ENVIRONMENTAL PSYCHOLOGY,149–157 (1994).
- [15]. Rule 4 of the Solid Waste Management Rules, 2016.