

South Asian Regional Governance of Environmental Crime: A Growing Menace to Our Future

Bulbul Chatterjee Roy^{1*}, Prof. Dr. Mayuri Pandya²

^{1*}Research Scholar, School of Law, Gujarat University, Ahmedabad, INDIA. bulbul.chatterjee.1996@gmail.com

²L.A. Shah Law College, Gujarat University, Ahmedabad, INDIA.

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ABSTRACT

Environmental crime has arisen as a significant but neglected problem in South Asia, including illicit operations such as animal trafficking, smuggling of ozone-depleting substances (ODS), hazardous waste disposal, illegal logging, and uncontrolled fishing. Notwithstanding their catastrophic ecological and socio-economic consequences, these offenses often get less enforcement focus owing to their global characteristics and diminished visibility. South Asia, characterized by its abundant biodiversity and permeable borders, has emerged as both a source and a destination for environmental crimes, notably the extensive poaching and trafficking of endangered animals such as tigers, rhinos, and pangolins. The unlawful commerce in Ozone-Depleting Substances (ODS) and hazardous waste has deteriorated public health and compromised climate resilience, while illicit logging and fisheries exacerbate biodiversity loss and economic instability in rural areas.

This paper rigorously analyses the institutional, legal, and enforcement deficiencies in South Asian nations and highlights effective but isolated initiatives such as Operation Hutan Lestari, Project Sky-Hole Patching, and contentious wildlife preservation strategies in Assam's Kaziranga National Park. It underscores the pressing need for regional collaboration, environmental criminal tribunals, corporate responsibility, capacity enhancement, and international agreement to govern and alleviate the harm inflicted by these offenses. The document promotes a multidisciplinary and transnational strategy for environmental governance, contending that robust political commitment, institutional collaboration, and worldwide enforcement networks are essential to address the growing menace of environmental crime in South Asia.

Keywords: South-Asian Environmental Crime, Wildlife Trafficking, Logging, Smuggling of ODS, Tiger Farms.

INTRODUCTION

The escalation of environmental crime is jeopardizing animal populations at a concerning pace. An environmental crime is defined as any illegal behavior that negatively impacts the environment, either instantaneously or over an extended period. Environmental crime, particularly illegal trash trafficking and the unlawful trade in endangered species, has undeniable disastrous consequences; nonetheless, it remains a low priority for law enforcement. Such crimes often evade prosecution by authorities, since they are seen as "no victim, no crime" and are not prioritized. The severity of the problem is routinely minimized globally, and the media offers little coverage until an unusual event occurs.

In fact, all individuals on Earth experience the consequences. Illegal logging is a primary contributor to deforestation, flooding, climate change, and global warming. The degradation of the ozone layer results in health complications for humans, such as cataracts and skin cancer, while the illicit trade of ozone-depleting substances, particularly CFC refrigerants, directly exacerbates this situation. Environmental crimes proliferate in the contemporary linked world due to the facilitation of information dissemination and the unrestricted flow of goods and finance. Transnational criminal groups perpetrate environmental offenses.

The skin or ivory tusk of a poached tiger or elephant traverses several nations and individuals before arriving at the final consumer.

AN ENVIRONMENTAL CRIME'S DEFINITION

Five main categories of offences that are recognized by World Organizations like the G8, Interpol, EU, UN Environment programmes, and the UN Interregional Crime and Justice Research Institute can be used to describe environmental crimes. Some of which are:

1. Illegal wildlife trading in violation of the 1973 Convention on International Trade in Endangered Species of Flora and Fauna (CITES),
2. The illegal trafficking of compounds that deplete the ozone layer (ODS) in violation of the 1987 Montreal Protocol
3. Disposing of hazardous waste illegally and transporting it in violation of the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Other Wastes,
4. Fishing that is illegal, unreported, and unregulated (IUU) and that violates restrictions established by several regional fisheries management organizations (RMFOs),
5. Illegal logging and trading in timber occurs when wood is cut, moved, purchased, or sold outside the law.

There are currently no internationally enforceable restrictions on the trade in lumber, apart from CITES, which regulates the trade in endangered species. (Hayman & Duncan, 2002)

ILLEGAL TRADE IN WILDLIFE

South Asian nations account for 15 per cent of world biodiversity. The iconic species of big cats such as tiger, snow leopard and elephant, one-horn rhino, pangolin, brown bear, deer, reptiles, orchids, seahorse, star tortoise, red sander, shells, corals to name some of the species are seriously at the stage of extinction in South Asia, mainly because of illegal trafficking and poaching of wildlife (South Asia: Combating Illegal Wildlife Trade, 2010). Illegal trade in wildlife includes poaching, trafficking, smuggling and collection and illegal capture, of animals and plants, either as dead or live or their parts.

It is a form of trans-national organized crime that spans across many nations and has a huge negative impact on environment, biodiversity, health and governance of every nation. Since south Asia is not only a source, but also a destination for trafficked wildlife products ("Wildlife Smuggling," 2020). The number of tigers has increased significantly in recent years in China, Laos, Viet Nam, and Thailand, with 7,000–8,000 tigers apparently being kept in large number of tiger farms (Evans, 2021).

The Tiger farms means a captive facility or any confined place where tigers were breed with an intent of supplying the tiger products in the commercial markets. In tiger farms, they are displayed to visitors, fattened up for meat and then slaughtered for their bones, skins, nails and other body parts (Ford, 2021).

In South Asian nations, Due to Population expansion and rising wealth has increased the consumer demand for exotic and luxury goods, that includes animal items like ivory tusk, rhino horn, tiger skin, pangolin scales etc. In China, Viet Nam, and Hong Kong, consumers mainly demand for pangolins as 'luxury' wild meat and for traditional medicine. The high scale demand and illegal trade in Asian pangolins for their scales currently constitutes a threat to this endangered species.

Keeping a rhino's horn is seen as a prestige symbol in South Asian countries. In China, Vietnam, and Other South-East Asian countries, there is a misconception that rhino horn can cure cancer, leading to the sale of rhino horn for extremely high prices. It cost about 100g compared to \$6,000 in these countries, making it somewhat more expensive than gold (Ghosh & Guha, n.d.). The rhinos are under unprecedented pressure as a result.

The illicit wildlife items are frequently sold at South-East Asian market places in an open manner. The primary locations for this include Pramuka Market in Jakarta, one of the biggest wildlife markets in Indonesia, and Pasay City in Manila, which is the hub for the trade in rare and endemic species from the Philippines.

A clean, well-maintained supply chain ensures that body parts can be disposed of quickly and with little chance of being discovered. There are numerous trade networks, each with its own methods of smuggling, routes used by traffickers, and markets that comprise both local and foreign professionals involved in the manufacturing, warehousing and distribution of industrial items as well as the promotion and sale of wildlife products. Estimates that are available to the public place poachers earning between Rs 20,000 and Rs 1 lakh, and intermediaries earning between Rs 10 and Rs 70 lakhs. Consumers in India often spend between Rs 20 and 50 lakhs, while those in foreign countries typically spend about Rs 1 crore (Sharma & Hembrom, 2019).

As the aforementioned data and statistics make it clear that human greed, folklore that purports to treat a variety of illnesses, the need for distinctive and aesthetically pleasing goods, and entertainment all contribute to wildlife trafficking. But, the man should never lose sight of the reality that human existence is interconnected and that nature revolves on maintaining a balance among the many stakeholders. It is

important to practice the live and let live philosophy to prevent disastrous outcomes in the future.

SMUGGLING OF OZONE-DEPLETING CHEMICALS

Life is possible, because of an extremely thin layer of gas called the ozone layer, which is in the high stratosphere and shields the surface of the Earth from dangerous solar ultraviolet radiation. Extreme ozone layer loss was discovered in Antarctica in 1985 by scientists. The ozone layer is severely depleted because of anthropogenic factors, which releases large amounts of bromine, chlorine, and other substances into the atmosphere, where these compounds depleted the ozone molecules, particularly CFCs, HCFCs, and halons. The immune system being declined, photoaging of the skin, skin cancer and cataracts are just a few of the health effects of increased UV exposure.

The development of black market in ODS is a direct result of global aims to decrease or eventually eliminate the manufacturing and consumption of such substances. In fact, the Montreal Protocol on substances that deplete the ozone layer, inadvertently established the opportunity structure for illicit conduct, where perverse incentives result in large revenues and low entry costs. The lack of implementation of trade restrictions, the fact that smuggling helps escape import duties placed on ODS, and the fact that some nations continue to have a strong demand for ODS are significant factors influencing the persistence of the market for smuggled ODS in the Asia-Pacific area.

However, when it come to the usage of technology, India is one of the few nations and even a first country in some cases that do not deplete the ozone layer and have minimal global warming potential (GWP). Hydrochlorofluorocarbon (HCFC)-141 b, a compound used in the production of foam and the second-most powerful ozone depleting chemical after chlorofluorocarbons, has been completely phased out in India, according to a recent announcement from the Ministry of Environment, Forest, and Climate Change (CFCs). The Ministry adopted a structured agenda to engage with foam manufacturing companies for facilitate technical and monetary aid to move to Non-Ozone Depleting Substances. ("India Achieves Complete Phase out of One the Most Potent Ozone Depleting Chemical," n.d.).

ILLEGAL DISPOSAL OF HAZARDOUS WASTES

The illegal disposal or trafficking of hazardous waste, harms sustainable resources management. For processing, reusing, or disposing of hazardous garbage, western nations have shipped their rubbish to Asia, mostly to China. The meaning of "waste" represents the unwanted or unusable components in materials, such as municipal solid waste, hazardous waste, contaminated water, radioactive waste and e-waste, biomedical wastes and more. Manufacturing of plastics, chemicals, textiles, mining and processing of minerals, electronic and paper manufacture, food production, wood preservation, and hospital operations are a few industries that frequently produce hazardous waste.

In south Asia, the China used to be the world's largest trash buyer, due of affordable transportation. However, China's environmental issues were made worse by the global garbage dump. China also had their own high amount of domestic trash to sort. The Chinese government banned the import of several scrap materials and refused to accept any garbage that was more than 0.5% polluted in January 2018. Within a year, this crackdown cut China's garbage imports by 98%. It caused a catastrophe for nations that depend on China for trash management on a global scale.

Although the global garbage market benefits the private sector, Southeast Asian governments have banned the import of rubbish and are fighting back against it because toxic waste is being created and dumped into the environment, endangering the health of millions of people in Asia. Due to its dense population and tropical environment, South Asia is particularly vulnerable to pollution. Exposure to hazardous wastes can have serious negative impacts on one's health, usually by ingestion, inhalation, or skin contact. Such exposure can harm genetic material and result in cancer. Even though there are more rules and regulations, their enforcement is often ineffective and tainted by corruption. The already unfathomable costs to human health and the environment will only increase if immediate, meaningful action is not taken (Nelson, 1997).

ILLEGAL FISHING

Generally referred to as "illegal, unreported, and unregulated fishing," the activity involves catching fish in areas where it is not lawful to do so or in amounts or with fish that are in violation of local, state, or federal regulations. The practice depletes fish populations, putting species at considerable risk, and lowers biodiversity, producing species imbalance and harming ecosystems (Coning, 2011).

The factors that contribute to IUU fishing in the South Asian region include a lack of adequate regulatory oversight of national fishers and their vessels, an absence of efficient management tools to manage fishing capacity, a lack of effective enforcement of fishing laws, a high cost of monitoring fishing vessels, evasion of the payment of fishing taxes and fees, weak licensing and vessel registration, and hazardous and risky

working conditions for fishermen, particularly in Indonesia, Myanmar, and other under-developing south Asian nations. The issue of illicit fishing in the Asian area must be addressed immediately. If severe measures weren't adopted, it would allow fish species to become extinct and endanger the livelihood of the local fishers in this area. Aquaculture activities, which add to the revenue lost due to the decrease of marine fishing, are needed as a substitute for fishing. Strategic sites are required for aquaculture farming. The amount of IUU fishing in South Asia might be greatly decreased if the fisher replaced their loss of money from marine fishing with the income from aquaculture farming.

ILLEGAL LOGGING

Nowhere in the world are forests shrinking faster than in south Asia. Illegal logging remains a serious threat to forests and population of South Asia. Illegal logging occurs when forestry products are cultivated, transferred, processed, sold or purchased in contravention of national or international laws. It is a significant factor behind the deforestation, biodiversity loss and climate change mitigation. Illegal logging is closely connected with organized crime and corruption. The main contributing factors are a lack of data on forest resources combined with increased demand for forest products, weak institutional structures, corruption, an absence of transparency, poor law implementation, and the lack of effective means to monitor and carry out regulations pertaining to the use and protection of forest resources (Katila, 2009).

MAJOR CONSERVATION ACTIONS AND FIELD ACTIVITIES

Despite environmental crime typically receiving low attention on a global scale, there are a few instances when creative collaboration mechanisms and proactive enforcement, supported by political will, result in spectacular accomplishment.

An Effective but Controversial Policy of Assam Government

When this National Park in Assam, in eastern India, was founded a century ago, there were just a few Indian one-horned rhinoceros remained. Now, there are more than 2,400 i.e., two-thirds of the world's population. However, the manner the park's administrators preserve the creatures is hotly debated. Its rangers have been given the authority to shoot and kill, which is typically granted to armed personnel policing public unrest. In fact, the park guards were murdering more than 20 individuals a year, or an average of two people each month. In 2015, more people were shoot and killed by park guards than rhinos were killed by poachers. The government has given the guards enormous powers that provide them considerable protection against prosecution if they shoot and kill parkgoers. (Singh,2018).

Project Sky-Hole Patching

There was a new project called Project Sky Hole Patching which was launched on Sept 01, 2006, in Asia. The project was regions first coordinated customs enforcement operation against various environmental crimes.

The RILO AP (Regional Intelligence Liaison Office for the Asia and the Pacific) of the world custom organization's project Sky Hole Patching, which was an initiative focused on the trafficking of hazardous waste and ozone depleting chemicals. Customs of China made the first proposal for this initiative which aimed to use real time information to intercept shipments of notified ODS and garbage by using RILO's data collection capabilities and intelligence sharing network. More than 20 countries of Asia Pacific region and their custom administration participated in this initiative and over 1000 tons of illegal waste and 100 tons of illicit ODS were confiscated throughout the operations. Further, the project has not only raised the awareness about the ODS and waste trafficking amongst customs authorities but also spurred greater cooperation outside the target region ex. RILO AP is now working with European Union Network for the execution of environmental laws to combat the shipments of illegal waste. (Banks and Others, 2008)

Operation Hutan Lestari

After long procrastination and half measures to address the Indonesia's widespread illicit logging, the government of the land has begun taking strong actions in March 2005 and launched Operation Hutan Lestari. The president Mr. Susilo Bambang Yudhoyono has sent approximately 1500 police, military and forestry personnel to the eastern region of the country after observing evidence of the extensive logging in Papua. The operation OHL II (Operasi Hutan Lestari II) crack down efficiently stopped the flow of illicit logging and became a new phase in the battle to preserve the forestry of the nation. The Government of Indonesia has made the strides against illicit logging that has engulfed the nation since long. The issue of illicit logging is still existing although enforcement agencies has improved a lot. Due to Chinese wood traffickers are aware of the crackdown in Indonesia, EIAA inspections in China have also found less illicit timber from Indonesia being exported. The success can largely be attributed to strong political will at the top of the Indonesian government (Banks and others, 2008)

RECOMMENDATIONS

Finally, this study found various solutions in the forms of suggestions after assessing the current problem with the effort to combat and curb environmental crimes and they are as follows:

- **Need to have a comprehensive definition of “Environmental Crime”:** The term ‘environmental crime’ is new one. It requires more clarity on its definition, so the concept of environmental crimes need to be more certain and defined in all legislations which are having concern about environmental conservation.
- **Introduction of new comprehensive programs to address environmental crimes:** The National and International institutions require to rethink and reintroduce the new and useful programs relevant to environmental crimes. There is an urgent need for a strict institutional effort to combat and curb environmental crimes at all levels. Though the environmental harms are committed at the local level, but its impact is felt at global level. Hence, a comprehensive and specific program is very much required.
- **Institutional and Intergovernmental cooperation:** It is very much needed for institutional cooperation to strengthen, improve and provide proper support to all institutions for the cause of preventing, controlling and regulating environmental crime. Improve and support the co-operations among international and national institutions who are responsible for environmental protection will help to combat and curb environmental crime.
- **Establishment of exclusive environmental criminal courts at all level:** In 2016, the International Criminal Court expressed its desires to have environmental crimes cases in their jurisdiction, but it has not been considered seriously even at present. In India, the NGT has jurisdictions over environmental-related cases. At the same time, the higher Courts and subordinate courts have limited jurisdictions over environmental crime-related cases. Hence, urgent and stringent specific courts are required to conduct trial on environmental criminal cases so that such crimes could be controlled and regulated.
- **Bringing of corporate entities and its officers into the criminal responsibility:** After accessing corporate criminal liability particularly, with the corporation’s environmental criminal liability, laws are very few and vague. There is an urgent need to bring a stringent criminal law against corporations for the acts or omissions which are causing harm to the environment.
- **Need to have training programs to the officials of the authorities:** Institutions like Pollution Control Boards, Forest Dept, Wildlife officers, etc., are to be well-trained towards understanding the environmental crimes and its impacts and how to address such crimes. There must be institutional and comprehensive training, capacity-building programs, professional and scientific training at all levels to the officials of every authority responsible for controlling, preventing and regulating environmental crimes with a specific and technical approach.
- **Comprehensive global union to combat environmental crimes:** Most of the environmental crimes have been committed at local level, but the impact is felt at all global level. The preventive, control and regulating programs should have comprehensively addressed in the global context. Hence, it is very much needed to have exclusive international authority to control, prevent and regulate such environmental crimes worldwide.

WAY FORWARD

For environmental crime to be reduced, there must be better cooperation between law enforcement and political will. To confront environmental crime in all its forms, parties, concerned government ministries, specialized organizations, and implementing authorities should immediately put these measures into action:

- Acknowledge that, in contrast to certain other types of crime, environmental crime is an issue that immediately requires a constructive, effective, and ongoing worldwide response.
- Recognize that attempts to address environmental crime will be obstructed until corrupt authorities are dealt with since this is a haven for corruption at all over the world.
- Create an administrative reform to fight corruption, especially one that uses technology to get rid of direct human interference in things like the trade in forestry products.
- Commit to aid specially to those nations where the frequency of crime is significantly greater than in other countries and the resources are limited. Increase the capacity of intergovernmental organizations like the Interpol, World Customs Organization (WCO) and the United Nations Office on Drugs and Crime (UNODC) to create and strengthen national and regional enforcement authorities and to support units that investigate environmental crime with technical assistance.
- Promote the use of "environmental specific" legislation along with existing national criminal laws, laws pertaining to the recovery of profits of crime, and rules governing the asset forfeiture.
- Create new border security offices and environmental crime enforcement units or join ones that already

exist, to share information between them in order to carry out operations and investigations that target criminal networks.

- Encourage the involvement of pertinent individuals in the CITES Enforcement Experts Group to show sufficient political will and financial commitment to combat environmental crime.

CONCLUSION

In conclusion, environmental crime must be taken seriously and addressed as such, especially when it involves cross-border aspects. Organized crime and environmental crime sometimes go hand in hand, especially when it comes to the unlawful trade in endangered species and the illegal disposal of hazardous waste. Even though environmental crime is unrelated to organized crime, the investigating and prosecuting authorities should nonetheless see it as a serious crime that requires the proper investigation process and, if required, a cross-border strategy.

High level political will, stringent and clear laws, and widespread implementation of serious, information-led enforcement coordinated across national and transnational boundaries are the only ways to tackle this issue and regulate the illicit trading system. The earnings and benefits made serve as the primary motive for committing such crimes, just like in other areas of severe and organized crime. Therefore, a more broad-based and methodical approach should be taken when using asset tracking, seizure, and confiscation. The legal foundation for environmental crime and the methods used to police it is complicated and frequently of a technical character. More informational sessions for investigators, prosecutors, and judges are necessary, as well as the acquisition of investigation materials and expert expertise.

There is a need of cross-border and cross-agency collaboration both at international and national levels on analysis, information, prevention, enforcement and restoration from environmental crimes. It necessitates information sharing, consensus building, and collaboration across agencies. It necessitates bolstering monetary incentives, government agencies, and awareness campaigns. This calls for the development of potential restoration initiatives in complete collaboration with enforcement and protection, along with strategies for alternative livelihoods, financial incentives, consumer awareness in destination nations, and other factors.

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