

**Constitution of India and Environmental Governance:
Administrative and Adjudicatory Process
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Lecture No. 09
Common Law Roots and Constitutional Basis:
Common Law and Criminal Law Anchors**

As we continue our enquiry in environmental law, in the first module itself, we have familiarized ourselves with the basics of understanding environmental law, its sources and the basic principle that has steered the working and application of environmental law and natural resource management the world over. Now we are coming to a greater degree of focus now.

We begin our journey in this module. Starting with this module, the journey into the Indian legal system concerning the environment and at the threshold level we will be looking into the common law roots and the constitutional basis of natural resources and environmental governance in India. This module has 4 components. The first one deals with common law and criminal law anchors and the basics of natural resource management law.

The second component takes us to the fundamental law of the land as to what are the constitutional basic prescriptions, commands as to environmental governance. The third component of our enquiry in this module deals with how do the community of people do get engaged under the constitutional scheme alongside the decentralized management of environmental resources pan out in this body of law in India.

The fourth and the final segment of our discussion in this module refers to right to environment as a constitutional right. First, the common law roots and criminal law traditions besides natural resource management scheme.

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A FEW PRILIMINARIES



❖ *INDELIBLE IMPRINTS OF BRITISH EMPIRE, ON INDIAN LAW – FOLLOWED BY THE CONSTITUTIONAL FRAME STEERING IT, IN THE POST-INDEPENDENCE ERA.*

❖ *COMMON LAW* AND CRIMINAL LAW TRADITIONS, LEGACY OF COLONIAL RULE- DENSE INFLUENCE ON INDIAN LAW CONCERNING NATURAL RESOURCES AND ENVIRONMENT- CONCEPT OF "EMINENT DOMAIN"(- STATE HAS ULTIMATE OWNERSHIP OVER RESOURCES) PRESIDING OVER ALL THE LAWS CONCERNING WATER, LAND, FORESTS, MINES & MINERALS - CONTINUES TO BE PART OF INDIAN LAW AND ADMINISTRATION, EVEN AFTER INDEPENDENCE.*

* COMMON LAW: LAW SHAPED BY THE TRADITIONS & PRACTICES ADOPTED BY COURTS- JUDICIAL PRECEDENTS, AS AGAINST "CIVIL LAW" TRADITION IN THE REST OF EUROPE, THAT HAS ITS SOURCE IN STATUTORY FORMULATIONS.



The common law as the basis for Indian environmental law is not purely an Indian historical base, it is in fact a colonial legacy. It is something that has been passed on to us by the British and the same is now continuing to apply even now and so we needed to really understand the basic nuances of this common law. Common law in contrast to civil law. In the European system there are two traditions.

One tradition is a British tradition called a common law tradition. In the rest of Europe there is another tradition called the civil law tradition. Common law invariably connotes a tradition or a practice of a judge-declared law based upon customs and conventions of the communities of people in the legal system there. So, much more than any other, the practices adopted by the people by way of a tradition as a customary practice as something which has been reflected upon by the courts of law whenever dispute arise and as determined by the courts of law is the law of the land. That is what is referred to as the common law tradition.

A tradition which basis upon customs and conventions and practices as it is declared through the interventions of courts of law. So, judges play a very prominent role in shaping and evolving the body of law in the British system. And it is a very dynamic concept when you think of customs, conventions and practices, it is a living law and a living law as tempered through judicial reasoning. That is what common law is about.

The contrast is a civil law. The civil law of the rest of the Europe pitches its faith on the written law, the statutory law - that which is declared the law of land by the legislature. The law made by the legislature, that is sacrosanct. That is whenever you are referring to law in the continental European system, it is civil law the law that has been made by the lawmaker.

So, whenever anybody talks about law there, the question that is being posed as a general rule is shown in the rule book so that I will accept it as law. Anything that does not exist in the rule book is not law, that is European system for you. India has adopted this common law

tradition and of course with our constitution coming into existence and legislature also are taking their own place, now we have a combination of both common law and statutory law adopted and applied by the Indian legal system.

But this common law roots have actually decorated and even have provided the basis of the Indian law and in the evolutionary phase, its role and impact is very simple. What is the nature of impact and which aspect of common law has impacted environmental law thus the enquiry law.

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I. COMMON LAW



- ❖ LAW OF PUBLIC NUISANCE: - ANNOYING, IRRITATING ACT AS TO CAUSE INCONVENIENCE TO OTHERS, TO SUCH AN EXTENT AS TO COMPENSATED THROUGH SOME KIND OF LEGAL RELIEF- INJUNCTION AND/ MONETARY COMPENSATION FOR THE OFFENDING ACT- SHOULD NOT BE A TRIVIAL ACT : "DE MINIMIS NON CURAT LEX" (= THE LAW DOES NOT BOTHER ABOUT TRIVIALITIES -).- A TORT (-CIVIL WRONG-) AND A CRIME -APPLICATION IN RELATION TO ANY POLLUTING ACTIVITY- ACTION BY GENERAL ADMINISTRATION - WORKED DURING THE BRITISH REGIME AND EVEN AFTER INDEPENDENCE.
- GENERAL VERSUS SPECIALIZED ADMINISTRATION: WITH THE ENACTMENT OF SPECIFIC LEGISLATIONS ON POLLUTION CONTROL, (- STARTING FROM 1974-), HAS THE POWER OF GENERAL ADMINISTRATION UNDER THE LAW OF NUISANCE ,TAKEN OVER BY POLLUTION CONTROL BOARDS(-PCBs)?



There is this law of public nuisance under common law under the law of torts or the law of civil ground, nuisance is described as we understand in common sense of the term something which is irritating, something which is annoying, something which is discomforting and discomforting, something which I am not comfortable with that is nuisance for me and that has been something that I am subjected to by somebody else as well many a times we say do not be a nuisance, behave well, behave as a civilized person would behave.

So, it is not a normal behavior, a behavior which is objectionable and that is nuisance for you, but in law to be a nuisance it should have such a kind of an effect such a kind of an effect that we are just brushing it aside will not do, it has to be much more than that that you needed to compensate, you needed to give some relief for the other to the one to whom you have caused that nuisance and so your minor irritation is not a nuisance in law.

To be a nuisance, it has to be something which has an impact of such a kind of and of such a nature that the one who has been subjected to that need have to be given some relief, some legal relief either in terms of monetary compensation or in the form of a clear order of what is called as an injunction, stoppage of that activity, withdraw of an amine thing or being totally prohibited from carrying on the particular activity a kind of a command.

And this is actually done by the authority. Authority who has given that power to decide on that and so nuisance has these two elements. One is the act itself and the second one is the action resulting from that act. The action results upon a complaint, upon records to legal processes and then adjudication of giving the relief from the nuisance-ical activity that is the law of nuisance for you.

Normally, nuisance is a private act one persons annoys another that is why in the law of torts primarily what is being dealt is the private nuisance part, that individual conflicts, individual inconveniences to be privately settled that will make a private complainant and the authorities would act on that, but a nuisance can also be something which is not just confined to one individual, but a large number of people.

Something that would result in inconveniencing a large number of people. An obnoxious smell that has been caused by somebody dumping, a rotting waste substance in a public street, a large number of people are affected. This is referred to as public nuisance. And public nuisance is an act whereby any member of the public who is affected by the nuisance-ical activity can bring in a legal action for relief.

And this public nuisance can be a civil wrong whereby you can give a private complainant and then take an action as a member of that particular group of people who have been subjected to inconvenience or it can also be a criminal act whereby you complain to the police authorities and the police authorities would actually make an inquiry to institutional proceeding and get relief.

The difference between that criminal and civil wrong in the form of public nuisance is that in the case of civil wrong in a private action. In the case of criminal action, it is an action by the state triggered by my complaint or the complaint by group of people, the large number of people who go to the police station and then say look a large number of us are affected by that so kindly intervene and render justice to us, remove the public nuisance that has happened to us.

So, a public nuisance can both be a civil wrong and also a crime and that is written into the Indian law that where do the environment come here. A polluting activity can be a public nuisance and obstruction which would affect the normal quality of life of the people is an environmental wrong. So, environment wrong can be a public nuisance and it follows the same path of getting legal relief as it is being done in the case of the common law tradition on public nuisance.

Here, a question arises. What is being referred to so far is a law that has been given to us by the British it is a very general law. Public nuisance is a very general law. It could be any kind of inconvenience, pollution is only one aspect of it and there is nothing written down as a statutory law in specific terms in any enactment. It is something which is got out of custom, traditions and practices and through judicial pronouncements.

Now that one may ask a question now that we have specialized laws on issues concerning pollution and from which there is a specific specialized agency that has been interested in the responsibility of giving relief. So, when such being the case then a specialized agency comes into the picture of dealing with the problems of all kinds of pollution, will this general law concerning public nuisance continue? It is not just my question and it cannot be just your question alone. This is actually been the question that was posed.

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- SUBJECT MATTER OF JUDICIAL ATTENTION AND RESOLUTION :
POSITION REMAINED UNCLEAR, AS DIFFERENT HIGH COURTS TOOK
CONTRADICTIONARY POSITIONS, LIKE IN THE CASES OF:

- *Nagarjuna Paper Mills Ltd., V. SDM & DO, Sangareddy, 1987 Cr.L.J. 2071*
- *Tata Tea Ltd., V. State of Kerala, 1984 Ker.L.T. 645*
- *Krishna Panicker V. Appukuttan Nair, 1993(1) Ker. L.T. 771*

-THE POSITION GOT CLEARED AND SETTLED IN B.GOPALA v. KARNATAKA STATE POLLUTION CONTROL BOARD, IN 2000. BY KARNATAKA HIGH COURT, WHICH REMAINS THE CURRENT STATUS OF THE RELATION OF THE GENERAL ADMINISTRATION AND THE PCBs OVER THE ISSUE.



And that was very much alive for a pretty long period of time in a number of cases till around 2000 AD. Between 1980 and 2000 this was the kind of question posed in a court of law. I have presented before you 3 cases here and the fourth one. These 4 cases would sum up the entire evolution are now concerning the law of public nuisance.

It is still continuing to operate the common law tradition even after specialized laws were made. We came up with special laws concerning environmental pollution right from the year 1974, before that we did not have a special law. So, till then fine even after our Independence, the British tradition of an hand written law that which has been made into law by the courts intervention as at the a British regime and also subsequently under the domestic law as well.

Whereby the general administration like the policeman, the executive magistrate in the form district collector dealt with the issues of public order, public health, public morality, public nuisance. Fine, but after our Independence and much, much later then from 1974 onwards we started coming with special law we already have a statutory law there and so from 74 onwards have this law stopped operating and as the special law taken over.

And the pollution control people will take care of the pollution they have their own legal process and let that be addressed that way. This has been the question with the host of cases that I referred here starting from the Nagarjuna Paper Mills through the Tata Tea Limited and

the Krishna Panicker case concluding with B. Gopala. The first case is from Andhra Pradesh. The second and third are from Kerala High Court. The fourth one is by the Karnataka High Court.

I am summing up the facts of these cases on one head for our convenience. It is a familiar instance of somebody releasing polluting substances into a stream of a water, a riverine stream. In all these cases, it is an industry which is doing this business. An industry is releasing untreated effluence into a riverine system and that is creating a lot of problems for the people nearby.

There is pollution of the river, there is smell or intolerable and so they go and approach the local authorities. In some case it is the Panchayat in another case it is the District Magistrate. And these authorities as it so happened they started taking action, issue notices to the industry to resist from that activity and also threatening with direct legal actions against them. The story gets a little complicated here that when they are at it there is already the pollution control board which is also getting into the scene here.

Because remember these are the cases in 1980s, one is 1987 another 1984 third one 1993 and the fourth one in 2000. So, this is after the making of the pollution control house in India and so there was already a pollution control board which comes into the scene and starts taking charge. The company complains - to whom we should answer? Should we answer the general administration or should we answer the pollution control board?

Whom should we satisfy, who can pass on against us? So, let this be resolved and once it is resolved we would act accordingly and so the matter goes to the High Court. In the first case, it has been stated that once the highest authority who has been statutorily designated to deal with issues of pollution a specialized body takes actions or initiates action the other one should withdraw.

And the general administration says, what are you telling our jurisdiction runs through the entire state it does not just confined to a nuisance-ical activity and we exercise our jurisdiction. So, it is a question of jurisdiction of a conflict. At one level, these courts took up the position that when the general administration can deal with the issues of pollution till such time the Pollution Control Board takes charge.

The moment they take charge and start initiating legal action the general administration should fold up its hand and pack its bags and leave. So, questions of jurisdiction of conflicts cannot arise. The other line of thinking by the other court was simply this that supposing I have complained to the general administration and some or the other the pollution control does not bother to look into this problem at all.

Then find the general administration can run through the entire thing and then decide and what it lays down and what it decides will be binding on the offending party. Still the matter was not resolved. Is it that the general administration should stop after the Pollution Control

Board comes into the picture or can it continue? The third instance, the court of law said, you can continue and you can give some kind of relief whatever that you feel like.

Your relief is independent of the relief that a Pollution Control Board gives and so both of you can exercise jurisdiction. This actually created a lot of confusion and the one who took advantage of the confusion was the industry all the while, you resolve it first between you two authorities the general administration and the specialized body you decide amongst yourself as to who is right and who is wrong

Who has the jurisdiction and how we need have to really confirm not that we do not want to follow law, but we would like to be clear as to whose dictate we need have to confirm. Luckily this got resolved in the fourth case that I have referred to the case of B. Gopala versus Karnataka State Pollution Control Board in the year 2000. It is a beautiful judgment I recommend every one of you to read the case. The same fact situations the decision is different here.

The court says it is irrespective whether who comes into the picture first, who comes in later. The role and responsibility of the general administration on an issue of public nuisance is not the same as that of the pollution control board. In the case of pollution control board something becomes a pollution only when in the statute book there are standard prescribe. If you exceed this limit it becomes pollution and once it exceeds that limit and when it becomes pollution under that statutory law the pollution control board would act and so the action on the part of the pollution control board is of a very limited scope and application. It can exercise such jurisdiction anytime, it may be the first one to come in or it may be the next one to come in it can carry on with its activity, it can follow the rules of procedure of law and it can pass its orders in accordance with that statute.

There is no conflict and jurisdiction here whether the general administration comes or first or later the general administration jurisdiction is intact. The public nuisance that the general administration deals with is very generic of which pollution is only a species and even within that pollution as a species every conceivable nuisance-ical activity is a pollution. Under general administration, but only some of them becomes pollution and a pollution control law.

And so the action initiated and action taken with the general administration, maintaining law and order ensuring health hygiene and well being of the people which is far larger function than the function of the pollution control board which is only bound by norms and standards of the written law. The general administration in its discretion can slap penalties, can slap an injunctive order of deterrence, stoppage, prohibition, removal of a nonsensical activity or any order with respect to that.

So, it looks like a very logical conclusion that the common law tradition on the public nuisance law of asking the general administration to take action alongside under the special law the Pollution Control Board taking action. There are two independent jurisdictions, there

is no conflict and that shows the enduring value, utility and presence of the common law of nuisance even now.

And so nobody can escape any kind of an obligation of performing his duty. The general administration cannot say, "Look, go the Pollution Control Board, see this is the you real kind of excuse that we all some away what happen that particular authority is there why do not you go to them and get relief", that excuse is not possible here. Under this law, luckily a court of law have very clearly pronounced that irrespective of whether other one likes or not you perform your functions.

And thereby the basic idea is how the public nonsensical activity is withdrawn and people can breathe easy henceforth.

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- ❖ LAW CONCERNING NEGLIGENCE (= CARELESSNESS WHEN THERE EXISTED A DUTY TO TAKE CARE AND ACT RESPONSIBLY), IS ANOTHER AREA WHERE THE COMMON LAW IS BROUGHT INTO PLAY TO DEAL WITH ENVIRONMENTALLY DEGRADING ACTIVITIES
- ❖ PRINCIPLES OF STRICT LIABILITY, ABSOLUTE LIABILITY AND EXTENDED PRODUCERS' LIABILITY (- RECALL, COVERAGE OF THIS ASPECT, IN THE LECTURE SESSIONS ON FOUNDATIONAL NORMS AND PRINCIPLES-), ARE THE OTHER ASPECTS OF THE COMMON LAW THAT ARE USED BY COURTS OF LAW IN INDIA TO RENDER ENVIRONMENTAL JUSTICE
- THE TORT LAW PRINCIPLES, AS A RULE, APPLY TO CASES THAT ARE PRIVATE IN NATURE, VIOLATING INDIVIDUAL RIGHTS- COMMON LAW TRADITIONS, BY WAY OF SALUTORY JUDICIAL INTERPRETATIONS, EXPANDED THE SCOPE OF THEIR APPLICATION TO SITUATIONS THAT WOULD AFFECT A LARGE NUMBER OF PEOPLE- REMEDY, IN ALL SUCH CASES REMAINED, SECURING INJUNCTIONS (- ORDERS OF RESTRAINT/REMOVAL/WITHDRAWAL/DESTRUCTION OF OFFENDING ACT/OBSTRUCTION) AND COMPENSATION.



Then there is this law of negligence under this common law of tort. What is law of negligence? Negligence is carelessness when there exists a duty to take care and act responsibly. It is the other way of saying that when you are imposed with the duty to take care and you do not take care you are guilty of negligence. When do I have a duty to take care. My duty to take care arises under two circumstances.

One is when a statute clearly prescribes that under these circumstances these are the care, cautions and functions that you have to perform and if I do not perform I become a negligent office and against me actions can be taken. The second circumstances when negligence arises is through a contractual arrangement. In a contractual relationship there is a promise, there is an acceptance of that and there is some consideration passing each other and one has to pay for services rendered.

So, suppose that I promise as a hotelier for a payment of a certain sum of money, I will reserve a room for you in my hotel the money has changed hands, the terms and conditions are agreed to by the customer, it is my duty to make available the room on the days specified or the kind of description that I have given for the room available for him nothing less than that.

Anything short of it would be negligence on my part and it is an actionable wrong I can be proceed against. So, under the law of negligence, a negligent conduct can be under two circumstances when there is a duty of care and there is a failure and even within the duty of care it is not just performing one's job routinely, but when there is a degree of care expected because different positions require different level of care that should be displayed and skill to be shown.

So, between an electrician and an electrical engineer entering into an arrangement with an electrician the degree of care in the particular level. Entry to an agreement with an engineer with all the degree that you can post off the degree of care has to be taken by this more skilled person is at higher level and so at each level if I do not display that degree of care I still become negligent.

So, if an engineer performs the function of an ordering mechanic, then his responsibility remains and he becomes liable. There is negligence there. Apply it to the environmental situation. One is the basic rooms as we have already seen is a environment and environmental resources are not free goods that we have no right to pollute it is our duty not to pollute the environment, not to degrade the environment.

And if I were to do that kind of an act, I will be the guilty of negligence. I can proceeded against for my negligent conduct. Negligence is carelessness when care is required to be taken. Negligence is not taking the kind and level of care that is expected of a duty holder and the consequential legal action you should be able to face. So, if I am a forester, the degree of care that I have to take with regard to the forest which is under my jurisdiction and authority is at a different level than the degree of care that an ordinary member of the public will have to take over for us.

And so there is no excuse for him that he has to act when there are violations and if it does not, since the higher degree of care that is there on him if he has not acted, he will become liable. Then you have the principle of strict liability, absolute liability and extended producer's liability. Please recall, this aspect has been covered in the lecture session on fundamental norms and principles and the same you can read.

These are the other aspects of the common law that have lived the British rule, survived the British rule, they lived through, they have survived the British rule and they are still in operations through the interventions of courts of law to render environmental justice. So, what you see is the host of tort law principles, the law of nuisance, a law of negligence, the law of liability.

They apply to cases that generally are private in nature and violating individual rights, but common law traditions through wonderful judicial interpretations have expanded the scope of the application to situations that would affect a large number of people and the remedy in such cases or in the form of injunctions, order of restraint, removal, withdrawal or removal or destruction of the offending object or act and paying compensation.

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II. CRIMINAL LAW



CRIMINAL LAW, BY DEFINITION AND DESCRIPTION DEALS WITH STATE ACTION FOR AN OFFENSIVE ACT, THAT, AFFECT A LARGE NUMBER OF PEOPLE AND EVEN WHEN IT IS DIRECTED TOWARDS AN INDIVIDUAL OR A SMALL GROUP, HAS ADVERSE IMPACTS ON THE SOCIETY AS A WHOLE - UNDER CRIMINAL LAW AND ADMINISTRATION, A NUMBER OF PROVISIONS ARE APPLIED, WITH PENAL SANCTIONS OVER ISSUES CONCERNING POLLUTION AND ENVIRONMENTAL DEGRADATION, - AS THEY IMPACT THE SOCIETY/ENVIRONMENT AS A WHOLE - LIKE THOSE DEALING WITH ,

- *Public Health and Safety;*
- *Spread of Infection; food and drug adulteration;*
- *Fouling of public reservoir;*
- *Making atmosphere noxious to health;*
- *Negligent conduct as to explosive substances;*
- *Negligent conduct with respect to animals, etc.*



We go on to the criminal law. Criminal law as against the common law is a law which is supposed to deal with offences which are against the state. So, even if an individual is harmed it sends a wrong message to the entire society as a whole and the societal interest is affected. The crime like theft, robbery is supposed to be not just a crime against the person against whom the theft has been committed or in relation to a property belonging to a single individual.

Of course he is affected, but alongside that the entire society is affected. It tells a very sorry tale of the law and order situation of the state. It is a commentary upon the quality of governance and so in order to ensure that rule of law is observed, the state action is very much required and so the police missionary the prosecutor equipment and the criminal courts will actually deals with issues of crime of those description that are there in the criminal law.

Indian penal code and criminal procedure code as supported by the evidence law and actions are taken. So, do the government within the probably of this criminal law by definition and description deal with state action for an offensive act that affect a large number of people and even then it is directed towards an individual or a small rule it will have a lasting impact and adverse impact on the society as a whole.

Just to cull out a few provisions which deal with criminal law issues or which are referred to as crime which can be described as environmental crime can be listed like this. Issues of public health and safety under Indian Penal Code there are specific provisions on that, spread of infection, food and drug adulteration. So, poisoning a riverine system is an offence against the state, the state can proceed against that person.

He can be jailed for a particular period of time as prescribed under the law. Fouling of public reservoir, making atmosphere noxious to health, negligent conduct as to explosive substances, negligent conduct with respect to animals, etcetera. These are all crimes written under the Indian Penal Code under which the state action is possible.

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II. LAWS ON NATURAL RESOURCES



- LAND, WATER, FORESTS, MINES, MINERALS :
- AS A GENERAL RULE , ALL THE LAWS CONCERNING, NATURAL RESOURCES, LIKE,
- LAND: REVENUE, RIGHTS, USE AND MANAGEMENT ;
- FORESTS AND WILDLIFE: ADMINISTRATION AND MANAGEMENT;
- MINES, MINERALS: EXPLORATION, EXTRACTION AND EXPLOITATION -
- WERE ENACTED DURING THE BRITISH RULE IN INDIA. THE PRINCIPLE APPLIED WAS " EMINENT DOMAIN". THE SAME , WITH MINOR MODIFICATIONS, HAVE BEEN CONTINUED TO BE APPLIED EVEN IN INDEPENDENT INDIA- A FEW NEW LEGISLATIONS ENACTED IN THE POST-INDEPENDENCE ERA, REMAIN ANCHORED TO THE SAME PRINCIPLE
- LAWS CONCERNING FORESTS, WILDLIFE AND BIODIVERSITY WOULD BE COVERED, IN DETAIL, IN THE LATER PART OF THIS DISCOURSE.



Criminal law acquires very many dimensions and the offence against the state can be with regard to offending animals I have mentioned towards the end of the last slide and this has taken a specialized form in the body of a law called as forest and wildlife law where we will look into forest crimes and wildlife crimes which are environmental crimes then we move on to the other aspect of the common law tradition.

The laws of natural resources land, water, forest, mines, minerals, the air we breathe they all constitute natural resources. These have a lot of things to contribute to human well being, the quality of life and so a host of laws are made as a matter of fact. If you just look into the whole body of law and put all the laws on two pans of a balance on one side, all other laws on the other side only the laws concerning natural resources.

The laws in relation to natural resources far out way both in volume and in sheer numbers to the laws that are there in all other fields. So, natural resources are the wealth of an issue and so there are very many more laws than the laws of any other subject and oneach of these

natural resources there are 100s of laws enacted like for example in relation to environment, law in relation to land, revenue law, land rights law, use of management of land.

And the rights entitlements and claims in relation land where laws in relation to that. Laws concerning forest and wildlife, their administration and management, the laws in relation to mines and minerals there exploration extraction and exploitation. So, name any you have laws on each one of them. The standard features of all these laws are that these laws were made when the Britishers were ruling India.

And so the common law tradition continuous with independent India as well because none of these laws are repealed or obliterated. They might have modified a bit, they might been reformed a bit, but the quintessence of the British law concerning natural resources remain intact even now. And what is the underlying principle of this British law of natural resources? It is a principle of eminent domain. What is eminent domain?

Eminent domain refers to the sovereign power as a state, if you call state as a sovereign, the sovereign or the states has a complete control and authority over everything that comes within its territory. That means it is ultimate owner of all the resources in the same in independent India also now. What the British gave to us, it is the same independent India as well.

The entire law with regard to natural resources and a few legislations that were enacted after our independence they remain anchored to the same principle of eminent domain. You may have certain rights over the property or any kind including a site that you own, including a house you built on that land that you have own. What is your ownership? Your ownership is a right over everybody else except the state.

Except the state yes, why the state has the power of acquiring your land for a public purpose even though it is privately owned by you by compensating you because the larger public interest would demand that your individual interest need have to be subsumed under the larger public interest and the state will act for the larger public in national interest and the state agency is empowered to act in those circumstances.

So, all these laws concerning forest, wildlife and biodiversity they cover all these aspects of the eminent domain rule and how there are certain concessions and limitations of exercise of eminent domain. In these laws when we discussed in subsequent modulus much later. But the point I wish to emphasize here when I referred to a law of natural resources is that, it is this law which has indeed been able to ensure that every right and every entitlement that each one of us has is a limited right and the state in public interest can act on that all the time. We now move on to, in our second segment, the constitution enquires of the environment.