



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 6 AND ISSUE 1 OF 2026

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 6 and Issue 1 of 2026 (Access Full Issue on – <https://ijlr.iledu.in/volume-6-and-issue-1-of-2026/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

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ECOCIDE AND ENVIRONMENTAL JUSTICE: A CRITICAL STUDY ON THE RECOGNITION OF ECOCIDE AS A CRIME IN INDIA

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BEST CITATION – D.N. HARINI & JINESH M, ECOCIDE AND ENVIRONMENTAL JUSTICE: A CRITICAL STUDY ON THE RECOGNITION OF ECOCIDE AS A CRIME IN INDIA, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 6 (1) OF 2026, PG.1149-1159, APIS – 3920 – 0001 & ISSN – 2583-2344. DOI – <https://doi.org/10.65393/PDLN3905>

Abstract

Environmental degradation has intensified in scale, complexity, and long-term impact, revealing the structural limitations of traditional environmental governance models. Although India has developed an extensive constitutional and statutory framework for environmental protection, large-scale ecological destruction continues to be addressed predominantly through regulatory penalties, administrative sanctions, and compensatory mechanisms. Criminal accountability for grave environmental harm remains comparatively limited in scope and enforcement.

The global discourse on “ecocide” proposes a paradigm shift by conceptualising severe, widespread, or long-term environmental damage as a serious criminal offence. Several jurisdictions have introduced ecocide-like provisions into domestic criminal law, while international advocacy continues to seek recognition of ecocide under the Rome Statute of the International Criminal Court. This emerging movement reflects a normative transition from regulatory environmentalism to criminal environmental justice.

This article critically examines whether recognition of ecocide as a distinct criminal offence is necessary within the Indian legal framework. It analyses constitutional environmental jurisprudence, evaluates statutory mechanisms, examines ecocide-like incidents within India and abroad, and undertakes a comparative assessment of legislative developments in other jurisdictions. The article further explores institutional and doctrinal challenges that may arise in incorporating ecocide into Indian criminal law. It argues that while India’s environmental framework is progressive in constitutional principle, it remains largely remedial in operation. Recognition of ecocide could strengthen environmental justice, provided that legislative drafting is precise, institutional capacity is enhanced, and the reform is harmonised with constitutional safeguards and federal principles.

I. INTRODUCTION

Environmental degradation has emerged as one of the most significant challenges confronting contemporary legal systems. Rapid industrialisation, infrastructure expansion, extractive activities, urban growth, and climate-related disruptions have intensified ecological stress both globally and within India. Although

environmental regulatory regimes have expanded over the past decades, existing legal frameworks frequently treat environmental harm as a matter of compliance failure rather than as a grave criminal wrong.

The concept of ecocide has gained increasing international attention as a response to large-scale ecological destruction. Broadly

understood, ecocide refers to severe, widespread, or long-term damage to ecosystems that significantly impairs environmental integrity. Advocates argue that certain forms of environmental destruction are so grave in scale and consequence that they should attract criminal liability comparable to other serious international crimes.

In India, environmental protection enjoys strong constitutional support. Judicial interpretation of Article 21 has firmly established the right to a clean and healthy environment as an integral component of the right to life. Courts have incorporated principles such as sustainable development, the precautionary principle, the polluter pays principle, and the public trust doctrine into domestic jurisprudence. Moreover, Parliament has enacted comprehensive statutes governing pollution control, forest conservation, wildlife protection, and environmental adjudication.

Despite these developments, large-scale ecological destruction continues to occur. Industrial disasters, illegal resource extraction, deforestation, groundwater contamination, and environmental mismanagement have caused long-term harm to ecosystems and communities. Legal responses frequently rely on fines, regulatory directions, and civil liability rather than proportionate criminal prosecution. This raises a fundamental normative question: should certain forms of environmental destruction be recognised as a distinct and serious crime under Indian law?

This article examines the evolving concept of ecocide and evaluates its relevance within India's constitutional and statutory framework. It argues that while India's environmental regime is robust in principle, it remains primarily regulatory and compensatory in character. Recognition of ecocide has the potential to strengthen environmental justice by introducing a higher level of criminal accountability for irreversible ecological harm, provided such reform is carefully structured.

II. ENVIRONMENTAL JUSTICE IN INDIA: CONSTITUTIONAL AND LEGAL FRAMEWORK

A. Constitutional Framework for Environmental Protection

The Indian Constitution did not originally contain explicit environmental provisions. However, constitutional development through amendment and judicial interpretation has conferred substantial normative status upon environmental protection.

The Forty-Second Constitutional Amendment Act, 1976 introduced Article 48A into the Directive Principles of State Policy, requiring the State to endeavour to protect and improve the environment and safeguard forests and wildlife. Simultaneously, Article 51A(g) imposed a fundamental duty upon citizens to protect and enhance the natural environment.

Although Directive Principles and Fundamental Duties are not directly enforceable in courts, the Supreme Court has harmonised these provisions with Article 21 of the Constitution. Through this interpretative approach, environmental protection has been elevated to the level of a fundamental right. This constitutional evolution reflects recognition that ecological integrity is intrinsically linked to human dignity, public health, and intergenerational equity.

B. Expansion of Article 21 and Environmental Jurisprudence

The expansion of Article 21 has been central to the development of environmental rights in India. The Supreme Court has consistently interpreted the right to life to encompass the right to live in a pollution-free and healthy environment.

In early environmental public interest litigations, the Court recognised that environmental degradation directly undermines the enjoyment of life and personal liberty. Access to clean air and safe drinking water was treated as essential to a life of dignity. This jurisprudential development transformed environmental

protection from a policy objective into a constitutional guarantee.

The Court further acknowledged that ecological damage affects not only present generations but also future citizens. Thus, environmental rights have been framed within the broader principle of sustainable development.

C. M C Mehta Series of Cases

Public Interest Litigation has played a transformative role in shaping Indian environmental law. Among the most influential litigations were those initiated by environmental activist M. C. Mehta. Through these cases, the Supreme Court developed innovative doctrines to strengthen industrial accountability.

In matters concerning hazardous industries, the Court articulated the doctrine of absolute liability, departing from traditional common law principles. This doctrine imposed strict responsibility upon enterprises engaged in inherently dangerous activities, without permitting conventional defences. The objective was to ensure that industries internalise the social cost of environmental harm.

Subsequent cases relating to river pollution, vehicular emissions, and protection of heritage sites resulted in extensive judicial directions aimed at preventing ecological degradation. These interventions significantly strengthened environmental governance.

However, while these judgments expanded civil and regulatory accountability, they did not create a distinct category of serious environmental crime proportionate to large-scale ecological destruction.

D. Development of Environmental Principles by Judiciary

Indian courts have integrated several internationally recognised environmental principles into domestic law.

1. Polluter Pays Principle

The polluter pays principle requires that those responsible for pollution bear the cost of remediation and compensation. The Supreme Court has repeatedly affirmed this principle,

emphasising that environmental restoration is integral to justice. While compensation mechanisms have provided some relief, financial penalties alone may not adequately reflect the gravity of irreversible ecological harm.

2. Precautionary Principle

The precautionary principle mandates preventive action even in the absence of complete scientific certainty. Indian courts have incorporated this principle to restrain potentially harmful industrial activities. It reflects a forward-looking approach to environmental governance.

3. Public Trust Doctrine

The public trust doctrine recognises that natural resources such as forests, rivers, and air are held by the State in trust for the benefit of the public. This doctrine reinforces the idea that ecological destruction constitutes a breach of collective constitutional obligation.

Despite these doctrinal innovations, enforcement largely remains regulatory and compensatory. Criminal prosecution is comparatively limited in scope.

E. Statutory Framework for Environmental Protection

India has enacted comprehensive environmental legislation, including the Environment (Protection) Act 1986, the Water Act 1974, the Air Act 1981, the Forest Conservation Act 1980, the Wildlife Protection Act 1972, and the National Green Tribunal Act 2010.

The Environment (Protection) Act 1986, enacted in the aftermath of a major industrial disaster, empowers the central government to adopt measures for environmental protection and pollution control. The National Green Tribunal was established to provide specialised adjudication of environmental disputes and has played a significant role in awarding compensation and suspending environmentally harmful projects.

Nevertheless, penalties under these statutes often involve fines and relatively limited

imprisonment terms. Large-scale ecological destruction is not treated as a grave criminal offence comparable to core crimes under international law.

F. Limitations of the Indian Environmental Framework

Despite progressive jurisprudence, several structural limitations persist:

- Gaps in enforcement at ground level
- Delays in prosecution
- Limited deterrence through fines
- Administrative constraints
- Political pressures influencing environmental clearances

Industrial disasters and environmental controversies reveal that penalties imposed often do not proportionately reflect the magnitude of ecological and human harm.

While the judiciary has strengthened environmental governance, the absence of a specific offence recognising massive ecological destruction as a serious crime indicates a normative and structural gap.

III. CASE STUDIES OF ECOCIDE-LIKE INCIDENTS IN INDIA AND GLOBAL PERSPECTIVE

A. Understanding Ecocide Through Real-World Incidents

The debate surrounding ecocide is not merely theoretical; it is grounded in lived experiences of environmental devastation. Across jurisdictions, catastrophic ecological events have demonstrated the limitations of regulatory enforcement mechanisms. These incidents often share certain structural characteristics: large-scale environmental damage, long-term ecological consequences, widespread impact on human health and livelihoods, and insufficient criminal accountability.

Examining such incidents provides insight into the practical inadequacies of existing legal frameworks and highlights the normative

relevance of recognising ecocide as a serious offence.

1. The Bhopal Gas Tragedy (India, 1984)

The Bhopal Gas Tragedy remains one of the most devastating industrial disasters in history. The accidental release of toxic gas from a pesticide manufacturing plant led to immediate loss of life, long-term health complications, and extensive environmental contamination.

Environmental Impact

The disaster resulted in soil and groundwater contamination, accumulation of hazardous waste, and long-term ecological degradation. The environmental consequences extended beyond immediate human casualties and continue to affect subsequent generations.

Human Consequences

Thousands of people lost their lives, and many more suffered chronic respiratory illnesses, reproductive disorders, and other health complications. The intergenerational impact of toxic exposure further intensified the gravity of the incident.

Despite the magnitude of destruction, legal proceedings were largely confined to domestic criminal provisions addressing negligence. The final penalties imposed were widely criticised as disproportionate to the scale of harm. From the perspective of ecocide, the tragedy reveals the inability of existing legal frameworks to impose accountability commensurate with mass environmental destruction.

The absence of a specific offence addressing large-scale ecological harm meant that prosecution proceeded within the narrow confines of general criminal law. This structural limitation underscores the normative gap between environmental catastrophe and criminal liability.

2. Deepwater Horizon Oil Spill (United States, 2010)

The explosion of an offshore drilling platform resulted in one of the largest marine oil spills in history. The environmental consequences

included destruction of marine ecosystems, loss of biodiversity, and long-term contamination of coastal regions.

Although substantial financial penalties were imposed, the response remained primarily compensatory. The case illustrates a broader global pattern: catastrophic environmental harm often results in monetary settlements rather than criminal prosecution proportionate to ecological devastation. Financial liability alone may not adequately deter future misconduct.

3. Amazon Rainforest Destruction

Large-scale deforestation in the Amazon has generated significant concern regarding biodiversity loss, carbon emissions, and global climate stability. The rainforest performs crucial ecological functions, including carbon absorption and climate regulation.

Although domestic regulations exist, international criminal law currently lacks mechanisms to address peacetime deforestation at such scale. The Amazon example demonstrates that environmental destruction can have transnational consequences affecting global ecological equilibrium. Recognition of ecocide could potentially strengthen international accountability for such harm.

4. Niger Delta Oil Pollution

Prolonged oil extraction activities in the Niger Delta have resulted in widespread contamination of land and water, destruction of fisheries, and displacement of local communities. Although litigation has occurred in domestic and foreign courts, comprehensive criminal accountability remains limited.

The situation illustrates how environmental harm disproportionately affects vulnerable communities and highlights the need for stronger criminal mechanisms to address systemic ecological exploitation.

B. Indian Ecocide-Like Situations

1. Sterlite Copper Plant Controversy

The controversy surrounding the Sterlite Copper plant raised serious concerns regarding groundwater contamination and air pollution. Public protests and administrative action eventually led to closure of the facility. However, criminal liability for large-scale environmental damage remained limited in scope. The episode revealed regulatory shortcomings and tensions between industrial development and environmental protection.

2. Illegal Sand Mining

Unregulated sand mining across river systems has caused erosion, habitat destruction, and depletion of groundwater resources. Despite judicial intervention, enforcement challenges persist. The scale of ecological harm in certain regions suggests that environmental offences may exceed mere regulatory violations and approach systemic ecological damage.

3. Deforestation and Infrastructure Expansion

Infrastructure expansion projects, including highways and hydroelectric installations, have led to substantial forest diversion. Although environmental clearances are mandatory, long-term ecological costs are often difficult to quantify. In cases involving irreversible forest loss, the adequacy of existing criminal provisions remains debatable.

4. Climate Change as Structural Ecocide

Climate change presents complex attribution challenges. While it results from cumulative global emissions, certain large-scale industrial activities contribute significantly to ecological destabilisation. Recognition of ecocide could theoretically extend to conduct involving knowledge of substantial environmental risk. However, establishing causation and intent in climate-related harm remains legally intricate.

5. Patterns Emerging from Environmental Disasters

A comparative assessment of these incidents reveals recurring structural weaknesses:

- Environmental harm is treated as regulatory non-compliance rather than serious criminal wrongdoing.
- Corporate actors often resolve disputes through financial settlements.
- Victims face prolonged litigation and delayed justice.
- International criminal law lacks jurisdiction over peacetime ecological destruction.

These patterns strengthen the normative case for examining ecocide as a transformative legal mechanism capable of enhancing deterrence and moral condemnation.

IV. COMPARATIVE PERSPECTIVES ON ECOCIDE RECOGNITION

The question of recognising ecocide as a criminal offence has increasingly entered legislative and diplomatic discourse across multiple jurisdictions. While international criminal law has not yet formally incorporated ecocide into the Rome Statute framework, several states have adopted or proposed domestic provisions addressing large-scale ecological destruction. These developments illustrate an emerging normative shift in environmental criminal jurisprudence, though approaches remain varied in scope and enforcement.

A. France

France has taken notable steps toward strengthening environmental criminal accountability. In 2021, through its Climate and Resilience legislative reforms, France introduced the concept of “ecocide” in a limited domestic context. The French model does not fully replicate the broader international proposal for ecocide as a crime against peace; rather, it integrates serious environmental harm within existing criminal law structures.

Under the French framework, intentional acts causing serious and lasting environmental damage may attract enhanced penalties, including imprisonment and substantial fines. The reform reflects recognition that certain

environmental harms transcend regulatory non-compliance and warrant criminal condemnation. However, the requirement of proving intentional conduct narrows the scope of liability. Critics argue that large-scale ecological harm often arises from reckless or grossly negligent conduct rather than deliberate intent, thereby limiting prosecutorial reach.

Nevertheless, the French experience demonstrates that domestic criminal codes can incorporate ecocide-like offences without dismantling existing environmental regulatory systems. It also illustrates how legislative recognition can elevate environmental protection within national criminal policy.

B. Belgium

Belgium has emerged as one of the European jurisdictions actively supporting the criminalisation of ecocide at both national and international levels. Recent reforms to its penal code have introduced provisions addressing the most severe forms of environmental destruction. These provisions aim to target individuals occupying positions of significant decision-making authority, as well as corporate entities.

The Belgian approach is noteworthy for two reasons. First, it emphasises accountability of senior corporate or managerial actors rather than focusing exclusively on lower-level operational violations. Second, it reflects diplomatic engagement with the broader movement advocating inclusion of ecocide within international criminal law.

Belgium’s reform signals growing recognition within European legal systems that environmental harm can attain a level of seriousness comparable to other grave crimes. However, effective enforcement will depend upon prosecutorial independence, evidentiary capacity, and judicial interpretation of statutory thresholds.

C. Russia

The Russian Criminal Code includes a provision addressing acts capable of causing ecological catastrophe. This statutory language criminalises large-scale destruction of flora and fauna, poisoning of natural resources, and other actions resulting in environmental disaster.

The existence of such a provision indicates that the concept of ecocide is not entirely novel within domestic legal systems. However, reported enforcement under this provision has been limited. This highlights an important lesson: legislative inclusion alone does not guarantee robust accountability. Political will, institutional capacity, and transparency significantly influence practical application.

The Russian example underscores the distinction between symbolic criminalisation and effective environmental prosecution.

D. Vietnam and Moldova

Vietnam and Moldova have incorporated provisions within their penal codes addressing mass destruction of the natural environment. These statutes criminalise large-scale ecological damage and classify it among serious offences. In certain formulations, such acts may be framed in relation to crimes against humanity when committed under particular circumstances.

These legislative models demonstrate that environmental catastrophe has, in some jurisdictions, been conceptualised as a crime of significant gravity. However, the doctrinal relationship between these provisions and broader international criminal law remains complex. Enforcement practices and interpretative guidance are less developed compared to conventional crimes.

E. Mexico

In Mexico, legislative proposals have sought to introduce ecocide into the Federal Penal Code, drawing upon definitions formulated by international expert panels. The proposed framework emphasises unlawful or wanton acts committed with knowledge of substantial likelihood of severe environmental damage.

The Mexican proposal is notable for its incorporation of mental elements aligned with international criminal standards. By requiring knowledge of probable severe and widespread harm, the proposed offence attempts to balance deterrence with principles of legality and foreseeability.

Although still subject to legislative deliberation, Mexico's initiative reflects the increasing influence of global civil society movements advocating ecocide recognition.

F. United Kingdom

In the United Kingdom, a Private Members' Bill has been introduced seeking to create a specific offence of ecocide within domestic criminal law. The proposal aims to address a perceived gap whereby severe environmental harm, particularly resulting from high-level corporate decisions, escapes proportionate criminal accountability.

The proposed model focuses on decision-makers in senior positions, thereby emphasising corporate governance responsibility. While the Bill has not yet become law, it has stimulated significant academic and policy debate regarding the role of criminal law in environmental protection.

The United Kingdom's discussion highlights broader concerns about the adequacy of regulatory enforcement mechanisms in advanced industrial economies.

G. Uzbekistan

Uzbekistan's criminal code includes provisions addressing severe environmental offences, including pollution leading to grave consequences such as mass illness or death of wildlife. While these provisions criminalise environmental harm, the penalties remain relatively moderate compared to core international crimes.

This illustrates a regulatory-criminal hybrid approach, where environmental harm is recognised as criminal but not elevated to the highest tier of penal gravity. The Uzbek model demonstrates that criminalisation exists on a

spectrum, ranging from regulatory offences to potential international crimes.

H. Vanuatu and Maldives

Small island nations such as Vanuatu and the Maldives have played a significant diplomatic role in advocating for the recognition of ecocide at the international level. Facing existential threats from rising sea levels and climate change, these states argue that environmental destruction can endanger national survival.

Their calls to amend the Rome Statute to include ecocide reflect the perspective that ecological harm may threaten global peace and security. Although formal amendment has not yet occurred, their advocacy has elevated ecocide within international legal discourse.

I. European Union Developments

The European Union has strengthened its Environmental Crime Directive to impose stricter criminal penalties for serious environmental violations. While the EU has not formally recognised ecocide as a standalone international crime, it has increasingly emphasised criminal law as an enforcement tool in environmental governance.

Recent reforms expand the list of environmental offences, enhance penalties, and promote cross-border cooperation. This trend reflects growing recognition that administrative sanctions alone may be insufficient to deter grave environmental misconduct.

Comparative Analysis

A comparative evaluation of these jurisdictions reveals significant diversity in approaches to ecocide recognition:

- Some states adopt narrow definitions requiring intentional conduct.
- Others employ broader formulations addressing ecological catastrophe.
- Certain jurisdictions emphasise corporate accountability at the highest decision-making levels.

- Diplomatic initiatives focus on international criminalisation under the Rome Statute.

Despite these variations, a common normative thread emerges: severe environmental destruction is increasingly viewed as deserving criminal sanction beyond ordinary regulatory penalties.

However, comparative experience also reveals substantial challenges. Definitions remain inconsistent, enforcement practices vary, and political considerations influence implementation. The absence of a harmonised international standard may complicate cross-border environmental accountability.

For India, these developments provide both inspiration and caution. They demonstrate that domestic criminalisation of ecocide is legally feasible, yet they also emphasise the necessity of precise drafting, institutional capacity, and sustained political commitment.

The comparative experience ultimately suggests that recognition of ecocide is not merely symbolic. When effectively designed and enforced, it can signal a fundamental transformation in environmental criminal jurisprudence – shifting from a paradigm of regulatory compliance to one of moral and legal accountability for ecological destruction.

V. CHALLENGES IN RECOGNISING AND IMPLEMENTING ECOCIDE LAW IN INDIA

The recognition of ecocide within the Indian legal system presents complex constitutional, doctrinal, and institutional challenges. While the normative appeal of criminalising large-scale ecological destruction is compelling, translating this idea into enforceable law requires careful legislative design and systemic preparedness. The effectiveness of any ecocide framework will ultimately depend not merely on symbolic recognition but on its practical and constitutional viability.

A. Legislative Clarity and Definition

One of the foremost challenges lies in defining the contours of the offence with sufficient

precision. Criminal law operates under the principle of legality, which requires that offences be clearly defined so individuals have fair notice of prohibited conduct. Terms commonly associated with ecocide—such as “severe,” “widespread,” or “long-term” environmental damage—are inherently evaluative and may be subject to varied interpretation.

If these thresholds are drafted ambiguously, courts may encounter difficulties in determining the degree of ecological harm necessary to trigger criminal liability. Overbroad definitions risk constitutional challenge on grounds of vagueness, while overly narrow formulations may render the offence ineffective. Therefore, legislative drafting must incorporate measurable criteria, scientific benchmarks, or explanatory provisions to guide judicial interpretation.

Further, clarity regarding the mental element of the offence is essential. Whether ecocide should require proof of intention, knowledge, recklessness, or gross negligence is a critical policy decision. A strict intent requirement may limit prosecutorial success, while a broader mental element could raise concerns regarding over-criminalisation.

B. Harmonisation with Existing Environmental Laws

India already possesses an extensive environmental statutory regime, including pollution control legislation, forest conservation measures, and specialised environmental adjudication through the National Green Tribunal. Introducing ecocide as a distinct criminal offence requires careful coordination with this existing framework.

A primary concern is the risk of duplication or conflict between regulatory offences and the proposed ecocide provision. Legislators must delineate circumstances under which conduct escalates from regulatory violation to grave criminal offence. Without clear differentiation, parallel proceedings may generate procedural complexity and inconsistent outcomes.

Additionally, the relationship between ecocide prosecution and civil compensation mechanisms must be defined. Environmental harm frequently requires remediation and restitution. Criminal proceedings should complement, rather than undermine, restorative environmental objectives.

C. Federal Structure and Centre-State Coordination

Environmental protection falls within the Concurrent List of the Constitution. Both Parliament and State Legislatures possess competence to enact environmental laws. However, effective enforcement depends heavily upon state-level administrative machinery.

Introducing ecocide legislation at the national level would necessitate coordination between Union and State authorities, particularly with respect to investigation, prosecution, and evidence gathering. Variations in administrative capacity across states may affect uniform implementation. Furthermore, political considerations at the state level could influence prosecutorial discretion in cases involving significant economic projects.

Balancing national environmental objectives with state autonomy constitutes an important federal challenge.

D. Burden of Proof and Evidentiary Complexities

Ecocide cases would likely involve complex scientific and technical evidence. Establishing causation between specific conduct and large-scale ecological damage requires environmental impact data, expert testimony, and long-term monitoring records. Courts may be required to assess cumulative environmental effects rather than isolated incidents.

The standard of proof in criminal cases—proof beyond reasonable doubt—further complicates prosecution in environmentally complex matters. Environmental degradation often

occurs gradually, making it difficult to attribute harm to a single actor or decision.

Strengthening forensic environmental science infrastructure and judicial training in environmental adjudication would therefore be essential prerequisites for effective enforcement.

E. Corporate Accountability

Large-scale environmental destruction frequently arises from corporate decision-making processes involving multiple layers of management. Identifying individual culpability within complex corporate hierarchies presents significant legal challenges.

Indian criminal law recognises corporate liability in certain contexts, but effective enforcement against powerful corporate entities remains limited. Legislators must determine whether ecocide liability should attach to corporations as legal persons, to responsible directors and managers, or to both.

Clear statutory provisions regarding vicarious liability, managerial responsibility, and compliance obligations are necessary to prevent evasion of accountability. At the same time, safeguards must ensure that liability is not imposed indiscriminately without establishing sufficient mens rea or responsibility.

F. Institutional and Enforcement Capacity

The success of ecocide legislation depends upon institutional readiness. Investigative agencies must possess technical expertise in environmental science. Prosecutors must be trained to handle scientifically complex cases. Judicial officers must be equipped to evaluate ecological data and long-term environmental impact assessments.

Present institutional limitations, including delays in criminal trials and resource constraints, may hinder effective implementation. Without strengthening enforcement infrastructure, ecocide legislation risks becoming largely symbolic.

G. Balancing Environmental Protection with Development

India continues to pursue ambitious developmental objectives, including industrial growth, energy security, and infrastructure expansion. Criminalising severe environmental harm must be balanced with legitimate economic activity.

The doctrine of sustainable development, recognised by Indian courts, seeks to harmonise environmental protection with economic progress. Ecocide legislation must avoid creating regulatory uncertainty that discourages lawful enterprise, while simultaneously ensuring that reckless or destructive conduct is effectively deterred.

Careful calibration of thresholds and mental elements can help maintain this balance.

H. International Legal Position

At present, ecocide is not formally recognised as a crime under the Rome Statute of the International Criminal Court. Although advocacy efforts continue, the absence of international consensus may influence domestic policy considerations.

If India were to recognise ecocide domestically, it would operate independently of international criminal jurisdiction. However, future developments in international law may require harmonisation. Policymakers must therefore remain attentive to evolving global standards while designing domestic legislation.

I. Structural and Normative Considerations

Beyond technical challenges, recognising ecocide raises deeper normative questions. Criminal law carries expressive significance; it communicates societal condemnation of conduct deemed intolerable. Elevating ecological destruction to the level of serious crime reflects a shift in moral and legal consciousness.

However, over-criminalisation poses risks. Expanding criminal law without corresponding institutional safeguards may produce selective enforcement or political misuse. Therefore, ecocide legislation must incorporate procedural

protections, prosecutorial oversight, and judicial safeguards to preserve constitutional integrity.

VI. Conclusion

Environmental degradation in India has reached a level where regulatory penalties and compensation mechanisms alone may not be sufficient to address large-scale ecological destruction. Although constitutional jurisprudence under Article 21 has expanded the right to life to include environmental protection, serious environmental harm is still largely treated as a regulatory violation rather than a grave criminal offence.

The emerging global discourse on ecocide reflects a shift towards recognising severe environmental destruction as conduct warranting strong criminal accountability. In the Indian context, recognising ecocide could strengthen environmental justice by elevating ecological protection to a higher level of legal responsibility. However, such recognition must be carefully drafted, constitutionally sound, and supported by institutional capacity to avoid symbolic or ineffective enforcement.

VII. Suggestions

1. **Clear Definition** – Ecocide must be precisely defined with objective thresholds to avoid vagueness and ensure legal certainty.
2. **Limited Application** – It should apply only to extreme and large-scale environmental harm, distinguishing it from ordinary regulatory violations.
3. **Corporate Accountability** – Both corporate entities and responsible decision-makers should be held liable where severe ecological damage results from their actions.
4. **Institutional Strengthening** – Specialised investigative units, trained prosecutors, and judicial expertise in environmental matters are essential.
5. **Coordination with Existing Laws** – Ecocide provisions should complement, not conflict with, existing environmental

statutes and compensation mechanisms.

6. **Constitutional Safeguards** – Proper procedural protections must be ensured to prevent misuse and maintain fairness.

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