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ECOCIDE UNDER INTERNATIONAL CRIMINAL LAW : A DOCTRINAL ANALYSIS OF LEGAL RECOGNITION AND LIABILITY

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ABSTRACT

Environmental destruction has emerged as one of the most pressing challenges confronting the international legal order. While international law has progressively recognised environmental protection as a collective concern of humanity, serious environmental harm continues to occur with minimal accountability. Environmental crimes, ranging from illegal resource extraction to large-scale pollution and ecosystem destruction, expose the limitations of existing legal frameworks that primarily address environmental harm through state responsibility rather than individual criminal liability. This gap has led to growing discourse around the recognition of ecocide as an international crime.

Ecocide refers to severe, widespread, or long-term damage to the environment that threatens the survival of ecosystems and human populations alike. Although not formally recognised under the core international criminal law instruments, the concept challenges the anthropocentric orientation of international law by placing intrinsic value on nature itself. This paper examines the evolution of environmental crimes under international law and critically analyses the legal and normative foundations for recognising ecocide as a distinct international crime. It explores how principles such as intergenerational equity, sustainable development, and environmental justice support the criminalisation of mass environmental harm. The paper further assesses the role of international institutions and soft-law instruments in shaping environmental accountability, while highlighting the structural and political barriers that hinder enforcement.

By situating ecocide within the broader framework of international criminal law, the study argues that recognising ecocide would strengthen global environmental governance and reinforce the responsibility of states, corporations, and individuals. Ultimately, this paper contends that the inclusion of ecocide within international law is not merely a legal innovation but a moral and ecological necessity in an era marked by climate crisis and irreversible environmental loss.

KEY WORDS: Environment Crimes, Ecocide, International Law, Environmental Justice, Accountability.

Introduction

The protection of the environment has become one of the most urgent legal and ethical concerns of the modern international legal system. Rapid industrialisation, climate change, armed conflicts, and unsustainable exploitation of natural resources have caused serious damage to ecosystems and threatened human

survival.¹¹⁴¹ Environmental harm is no longer confined within national borders but affects the global community as a whole.¹¹⁴² However, international law has not yet developed strong mechanisms to punish those responsible for

¹¹⁴¹ Philippe Sands & Jacqueline Peel, *Principles of International Environmental Law* (Cambridge University Press, 2018).

¹¹⁴² United Nations, *Stockholm Declaration on the Human Environment* (1972).

large-scale environmental destruction, which has led to increasing debates on recognising ecocide as an international crime.¹¹⁴³

Environmental crimes include activities such as illegal logging, wildlife trafficking, toxic waste dumping, oil spills, and industrial pollution.¹¹⁴⁴ International environmental law has evolved through various declarations and treaties like the Stockholm Declaration and the Rio Declaration, but these instruments mainly focus on regulation and state responsibility rather than criminal punishment.¹¹⁴⁵ In many countries, environmental laws are poorly enforced due to political and economic pressures, allowing powerful actors to escape liability.¹¹⁴⁶

To address these gaps, the concept of ecocide has been proposed within international criminal law. Ecocide generally refers to extensive and severe damage to the environment that affects ecosystems and human life.¹¹⁴⁷ Unlike ordinary environmental offences, ecocide is argued to be a crime of international concern, similar to genocide and crimes against humanity. Recognising ecocide also challenges the traditional human-centred approach of law by acknowledging that nature itself deserves protection.¹¹⁴⁸ The idea of ecocide first gained attention during the Vietnam War, when massive environmental destruction occurred due to chemical warfare.¹¹⁴⁹ In recent years, scholars and activists have suggested including ecocide as the fifth international crime under the Rome Statute of the International Criminal Court.¹⁰ However, recognising ecocide raises several legal issues, including how to define the crime, how to prove environmental harm, and

how to fix responsibility on states, corporations, and individuals.¹¹⁵⁰

Ecocide is also linked with principles such as sustainable development, intergenerational equity, environmental justice, and the human right to a healthy environment.¹¹⁵¹ Environmental destruction often affects vulnerable communities and developing nations more severely, raising concerns of global inequality. Criminalising ecocide could strengthen accountability and act as a deterrent against large-scale environmental destruction.¹¹⁵² This paper undertakes a doctrinal analysis of the legal recognition of ecocide under international criminal law and examines the framework for establishing liability. By analysing treaties, judicial decisions, and scholarly writings, the study evaluates the feasibility of incorporating ecocide into the international criminal justice system.

1. Concept and Evolution of Environmental Crimes and Ecocide

Environmental protection has become one of the most critical concerns of contemporary international law, as environmental degradation increasingly threatens ecosystems, human health, and global stability. Rapid industrialisation, urbanisation, deforestation, climate change, and the unsustainable exploitation of natural resources have resulted in irreversible damage to the natural environment. In response to these challenges, the concepts of environmental crimes and ecocide have gained prominence in legal and academic discourse. Environmental crimes generally refer to unlawful acts that violate environmental laws and regulations, whereas ecocide represents a more severe category of environmental destruction that is proposed to be recognised as an international crime under international criminal law.

¹¹⁴³ Polly Higgins, *Eradicating Ecocide* (Shepherd-Walwyn, 2010).

¹¹⁴⁴ UNODC, *World Wildlife Crime Report* (2016).

¹¹⁴⁵ United Nations, *Rio Declaration on Environment and Development* (1992).

¹¹⁴⁶ David R. Boyd, *The Environmental Rights Revolution* (2012).

¹¹⁴⁷ Independent Expert Panel, *Proposed Definition of Ecocide* (2021).

¹¹⁴⁸ Richard Falk, "Environmental Warfare and Ecocide," *Bulletin of Peace Proposals* (1973).

¹¹⁴⁹ Ibid.

¹¹⁵⁰ Antonio Cassese, *International Criminal Law* (Oxford University Press, 2013).

¹¹⁵¹ United Nations General Assembly Resolution 76/300 (2022).

¹¹⁵² Edith Brown Weiss, *In Fairness to Future Generations* (1989).

Environmental crimes encompass a wide range of illegal activities, including illegal logging, wildlife trafficking, hazardous waste dumping, marine pollution, illegal fishing, and industrial emissions that exceed permissible limits. These crimes are often transnational in nature and involve organised criminal networks and multinational corporations, which makes enforcement particularly complex. Unlike traditional crimes, environmental offences may not produce immediate visible harm, but their long-term consequences can be devastating for ecosystems, biodiversity, and human populations. Environmental crimes contribute to climate change, loss of biodiversity, water and air pollution, and degradation of land resources, thereby threatening sustainable development and human well-being¹¹⁵³

Historically, environmental crimes have been addressed primarily through domestic legislation and international environmental agreements. Many states have enacted environmental protection laws that criminalise pollution, illegal resource extraction, and destruction of protected ecosystems. At the international level, environmental protection began to gain recognition as a global concern during the latter half of the twentieth century. The United Nations Conference on the Human Environment held in Stockholm in 1972 marked a turning point in international environmental governance by recognising the responsibility of states to protect and improve the environment for present and future generations.¹¹⁵⁴ This was followed by the 1992 Rio Declaration on Environment and Development, which introduced key principles such as sustainable development, the precautionary principle, and the polluter pays principle.¹¹⁵⁵ These principles have significantly influenced domestic environmental policies and international legal frameworks, although they primarily focus on

regulatory and preventive measures rather than criminal accountability.

Despite the development of international environmental law, the existing legal framework has been criticised for its weak enforcement mechanisms and limited scope of criminal liability. Most international environmental agreements rely on state compliance and cooperation, and violations often result in diplomatic or administrative consequences rather than criminal sanctions. As a result, powerful state and corporate actors frequently evade accountability for large-scale environmental harm. This gap in accountability has led to the emergence of the concept of ecocide as a potential solution to address catastrophic environmental destruction.

The term “ecocide” was first popularised in the 1970s in response to the extensive environmental damage caused during the Vietnam War, particularly through the use of chemical defoliants such as Agent Orange. Scholars and activists argued that such deliberate environmental destruction constituted a crime against nature and humanity and should be treated similarly to genocide.¹¹⁵⁶ Ecocide is generally understood as extensive, severe, or longterm damage to the environment that disrupts ecosystems and threatens the survival of human and non-human life. Unlike ordinary environmental crimes, ecocide is conceptualised as a crime of international concern that affects the global community and future generations.

The concept of ecocide challenges the traditional anthropocentric orientation of international law, which prioritises human interests over nature. By recognising ecocide, international law would acknowledge the intrinsic value of nature and the interconnectedness of human and ecological well-being. This shift reflects broader developments in international legal thought, including the recognition of environmental

¹¹⁵³ United Nations Office on Drugs and Crime (UNODC), World Wildlife Crime Report (2016).

¹¹⁵⁴ United Nations, Stockholm Declaration on the Human Environment (1972).

¹¹⁵⁵ United Nations, Rio Declaration on Environment and Development (1992).

¹¹⁵⁶ Richard Falk, “Environmental Warfare and Ecocide,” Bulletin of Peace Proposals (1973)

rights, sustainable development, and intergenerational equity.

Although ecocide has not yet been formally recognised under international criminal law, it has gained significant attention in legal and academic circles. Polly Higgins, a legal scholar and environmental advocate, played a crucial role in reviving the concept of ecocide and advocating for its recognition as an international crime. She defined ecocide as the extensive destruction of ecosystems to such an extent that the peaceful enjoyment of the environment by inhabitants has been severely diminished.¹¹⁵⁷ Her work led to global advocacy campaigns for the inclusion of ecocide as the fifth core international crime under the Rome Statute of the International Criminal Court (ICC).

In recent years, efforts have been made to develop a legal definition of ecocide. In 2021, an Independent Expert Panel proposed a definition describing ecocide as unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment.¹¹⁵⁸ This proposed definition aims to provide legal clarity and address concerns related to the principles of legality and certainty in criminal law. The development of such definitions reflects a growing international consensus on the need to criminalise large-scale environmental destruction.

A clear distinction exists between environmental crimes and ecocide in terms of scale, gravity, and legal treatment. Environmental crimes generally involve violations of environmental regulations and are addressed through domestic legal systems. They may result from negligence, regulatory non-compliance, or minor environmental harm. Ecocide, on the other hand, is proposed as a crime of the highest gravity, involving catastrophic environmental destruction with global consequences. If recognised, ecocide would fall

under international criminal law and impose individual criminal liability on perpetrators, including state officials and corporate executives.

The evolution of environmental crimes and ecocide is closely linked to broader philosophical and legal developments in international law. The concept of sustainable development emphasises the need to balance economic development with environmental protection. Intergenerational equity highlights the responsibility of present generations to protect the environment for future generations. Environmental justice focuses on the disproportionate impact of environmental harm on vulnerable communities and developing countries.¹¹⁵⁹ These concepts provide a normative foundation for criminalising severe environmental harm and recognising ecocide as an international crime.

Furthermore, the recognition of the human right to a clean, healthy, and sustainable environment by the United Nations General Assembly in 2022 strengthens the legal and moral basis for addressing environmental crimes and ecocide.¹¹⁶⁰ This recognition reflects a growing understanding that environmental protection is essential for the enjoyment of human rights and that severe environmental destruction constitutes a violation of fundamental rights.

In contemporary times, there has been increasing global advocacy for recognising ecocide as an international crime. Several states, legal scholars, and civil society organisations have expressed support for amending the Rome Statute to include ecocide. Some national jurisdictions have also begun to recognise ecocide or similar offences in their domestic legal systems, indicating a shift towards stronger environmental accountability. The increasing frequency of climate-related disasters, biodiversity loss, and ecological

¹¹⁵⁷ Polly Higgins, *Eradicating Ecocide: Laws and Governance to Stop the Destruction of the Planet* (ShepherdWalwyn, 2010).

¹¹⁵⁸ Independent Expert Panel for the Legal Definition of Ecocide, *Proposed Definition of Ecocide* (2021).

¹¹⁵⁹ Edith Brown Weiss, *In Fairness to Future Generations* (Transnational Publishers, 1989).

¹¹⁶⁰ United Nations General Assembly Resolution 76/300, *The Human Right to a Clean, Healthy and Sustainable Environment* (2022).

collapse has intensified the demand for criminalising environmental destruction.

2. Legal Framework Governing Environmental Crimes under International Law

The regulation of environmental crimes under international law has evolved gradually through treaties, customary international law, judicial decisions, and general principles recognised by civilised nations. Unlike traditional criminal law, international environmental law initially developed as a regulatory framework focused on state responsibility rather than individual criminal liability. However, judicial pronouncements and international instruments have significantly contributed to shaping the legal framework governing environmental protection and environmental crimes.

International environmental law began to develop systematically after the Second World War, particularly with the growing recognition that environmental harm often transcends national boundaries. The 1972 Stockholm Declaration on the Human Environment marked a foundational moment by recognising that states have the responsibility to ensure that activities within their jurisdiction do not cause environmental damage to other states or areas beyond national jurisdiction.¹¹⁶¹ This principle of transboundary environmental responsibility has since become a cornerstone of international environmental law.

One of the earliest and most influential judicial decisions in this regard is the Trail Smelter Arbitration (United States v. Canada), where the tribunal held that no state has the right to use its territory in a manner that causes serious injury to another state.¹¹⁶² The case established the principle that states are responsible for transboundary environmental harm, laying the foundation for modern environmental liability norms. Although the case did not involve criminal liability, it demonstrated that

environmental harm could give rise to international legal responsibility.

The International Court of Justice (ICJ) has further developed environmental principles through various cases. In the Corfu Channel Case, the ICJ emphasised the obligation of states not to allow their territory to be used for acts contrary to the rights of other states, which has been interpreted to include environmental harm.¹¹⁶³ Similarly, in the Gabcikovo-Nagymaros Project Case, the Court recognised the concept of sustainable development and stressed the need to balance economic development with environmental protection.¹¹⁶⁴ This case is particularly significant as it acknowledged that environmental norms are an integral part of international law.

In the Pulp Mills on the River Uruguay Case, the ICJ reaffirmed the obligation of states to conduct environmental impact assessments (EIA) when there is a risk of significant transboundary environmental harm.²⁶ The Court recognised EIA as a requirement under customary international law, thereby strengthening procedural obligations in environmental governance. Such procedural obligations play a crucial role in preventing environmental crimes by ensuring that potentially harmful activities are assessed and regulated in advance.

In addition to judicial decisions, several international treaties and conventions regulate environmental conduct and indirectly address environmental crimes. The Convention on Biological Diversity (1992) obligates states to conserve biological diversity and ensure sustainable use of natural resources. The United Nations Framework Convention on Climate Change (1992) and the Paris Agreement (2015) impose obligations on states to reduce greenhouse gas emissions and mitigate

¹¹⁶¹ United Nations, Stockholm Declaration on the Human Environment (1972).

¹¹⁶² Trail Smelter Arbitration (United States v. Canada), 3 R.I.A.A. 1905 (1941).

¹¹⁶³ Corfu Channel Case (United Kingdom v. Albania), ICJ Reports 1949.

¹¹⁶⁴ Gabcikovo-Nagymaros Project Case (Hungary v. Slovakia), ICJ Reports 1997. ²⁶ Pulp Mills on the River Uruguay (Argentina v. Uruguay), ICJ Reports 2010.

climate change. While these treaties do not criminalise environmental harm directly, they create binding obligations that, when violated, may lead to international responsibility and domestic criminal enforcement.

Customary international law also plays a crucial role in shaping the legal framework governing environmental crimes. The *sic utere tuo ut alienum non laedas* principle, meaning that states must not use their territory in a manner that harms others, is widely recognised as a customary norm.¹¹⁶⁵ Additionally, principles such as the precautionary principle, polluter pays principle, and intergenerational equity have emerged as guiding norms in international environmental law. These principles influence domestic legislation and judicial decisions, thereby strengthening the legal response to environmental crimes.

International institutions such as the United Nations Environment Programme (UNEP) and the International Law Commission (ILC) have contributed to the development of environmental norms. The ILC's Draft Articles on Prevention of Transboundary Harm from Hazardous Activities emphasise the duty of states to prevent environmental harm and cooperate in mitigating risks. Although these instruments are not legally binding, they reflect emerging customary norms and guide state practice.

Despite these developments, the international legal framework governing environmental crimes remains fragmented and primarily focused on state responsibility rather than individual criminal liability. Most environmental crimes are prosecuted under domestic laws, and international law serves as a normative framework rather than an enforcement mechanism. However, the growing recognition of environmental harm as a threat to humanity has led to

calls for integrating environmental crimes into international criminal law, particularly through the recognition of ecocide.

3. Ecocide under International Criminal Law: Recognition and Liability

The concept of ecocide has increasingly gained prominence in international legal discourse as the global community confronts unprecedented environmental degradation. Although environmental protection has traditionally been addressed through international environmental law, the idea of recognising ecocide as an international crime reflects a shift towards criminal accountability for severe environmental destruction. The debate over ecocide under international criminal law is rooted in the recognition that large-scale environmental harm threatens not only ecosystems but also human survival, peace, and security.

Ecocide is generally understood as the extensive destruction of ecosystems, whether through human activity or negligence, resulting in serious and long-term damage to the environment. While the term was first introduced in the 1970s in response to the environmental devastation caused by warfare and industrial activities, it has gained renewed attention in recent years due to climate change, deforestation, biodiversity loss, and industrial pollution. Scholars and environmental advocates argue that such acts should be treated as international crimes similar to genocide, crimes against humanity, and war crimes.¹¹⁶⁶

Under the current framework of international criminal law, environmental harm is addressed only in limited circumstances. The Rome Statute of the International Criminal Court (ICC) criminalises environmental damage primarily in the context of armed conflict. Article 8(2)(b)(iv) prohibits intentionally launching attacks that cause widespread, long-term, and severe

¹¹⁶⁵ Philippe Sands & Jacqueline Peel, *Principles of International Environmental Law* (Cambridge University Press, 2018).

¹¹⁶⁶ Philippe Sands et al., *Principles of International Environmental Law*, 4th ed. (Cambridge University Press, 2018), p. 889.

damage to the natural environment, where such damage is clearly excessive in relation to the anticipated military advantage.¹¹⁶⁷ However, this provision is narrow in scope, applying only during international armed conflicts and requiring proof of intent and proportionality. Consequently, most environmental destruction occurring during peacetime, such as illegal logging, oil spills, and industrial pollution, falls outside the jurisdiction of international criminal law.

Efforts to recognise ecocide as an independent international crime have intensified in recent decades. In 2021, an independent expert panel convened by the Stop Ecocide Foundation proposed a legal definition of ecocide for inclusion in the Rome Statute. The proposed definition describes ecocide as “unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment.”¹¹⁶⁸ This formulation aims to balance criminal accountability with legal certainty by requiring knowledge of substantial environmental harm while avoiding overly broad criminalisation.

Recognition of ecocide under international criminal law would significantly expand the scope of individual criminal liability. Currently, international criminal law focuses primarily on individual perpetrators, including state officials, military commanders, and other persons in positions of authority. If ecocide were recognised, corporate executives, political leaders, and decision-makers responsible for large-scale environmental destruction could potentially be held criminally liable before international tribunals. This would mark a transformative shift, as corporations themselves are not directly subject to ICC jurisdiction, but their leaders could face prosecution for decisions leading to severe environmental damage.

The principle of individual criminal responsibility is central to international criminal law. Under Article 25 of the Rome Statute, individuals can be held responsible for committing, ordering, soliciting, aiding, or abetting crimes within the jurisdiction of the Court.¹¹⁶⁹ Applying this principle to ecocide would require proving that the accused had knowledge of the environmental harm and contributed to its commission. This could include approving environmentally destructive projects, failing to prevent known environmental risks, or deliberately exploiting natural resources in a manner causing irreversible damage.

However, the recognition of ecocide raises complex issues regarding state responsibility and sovereignty. Many states rely on resource extraction and industrial development for economic growth, and criminalising ecocide could be perceived as restricting sovereign rights over natural resources. Developing countries, in particular, may argue that such criminalisation could hinder their development and exacerbate global inequalities. Nevertheless, proponents

contend that environmental destruction disproportionately affects vulnerable communities and future generations, making criminal accountability a matter of global justice.

Another significant challenge relates to the standard of proof and evidentiary requirements. Environmental harm is often cumulative, scientifically complex, and difficult to attribute to a single actor. Establishing causation between a specific individual’s actions and large-scale environmental damage would require sophisticated scientific evidence and expert testimony. Additionally, determining what constitutes “severe,” “widespread,” or “long-term” damage involves scientific and legal interpretation, potentially leading to uncertainty and inconsistent application.

¹¹⁶⁷ Rome Statute of the International Criminal Court, 1998, Article 8(2)(b)(iv).

¹¹⁶⁸ Stop Ecocide Foundation, Proposed Definition of Ecocide (2021).

¹¹⁶⁹ Rome Statute of the International Criminal Court, Article 25.

Despite these challenges, recognising ecocide as an international crime could strengthen global environmental governance and deterrence. International criminal law carries symbolic and normative power, signalling that certain acts are unacceptable to the international community. Similar to the development of international human rights and humanitarian law, the criminalisation of ecocide could contribute to the progressive development of international law and influence domestic legal systems to adopt stronger environmental protections.

4. Challenges and Future Prospects of Criminalising Ecocide

The proposal to criminalise ecocide as an international crime represents one of the most ambitious developments in contemporary international law. While the recognition of ecocide could transform global environmental governance by imposing criminal accountability for severe environmental destruction, it also raises significant legal, political, and practical challenges. At the same time, evolving jurisprudence, international legal developments, and global environmental movements suggest promising future prospects for the recognition of ecocide within international criminal law.

One of the principal challenges in criminalising ecocide lies in defining the offence with sufficient legal precision. International criminal law is governed by the principle of legality (*nullum crimen sine lege*), which requires that criminal offences be clearly defined and foreseeable. Environmental harm, however, is often gradual, diffuse, and scientifically complex. Determining what constitutes “severe,” “widespread,” or “long-term” environmental damage requires scientific expertise and may vary across ecological contexts. This ambiguity could create difficulties in judicial interpretation and may be challenged by accused parties on grounds of vagueness and legal uncertainty. The International Criminal Court (ICC) has consistently emphasised strict interpretation of

criminal provisions, as seen in *Prosecutor v. Lubanga*, where the Court reiterated that criminal statutes must be interpreted narrowly in favour of the accused.¹¹⁷⁰ This principle could pose obstacles in prosecuting ecocide unless the definition is drafted with exceptional clarity.

Another major challenge concerns the issue of causation and attribution of responsibility. Environmental destruction often results from cumulative actions by multiple actors over extended periods, including states, corporations, and individuals. Establishing a direct causal link between an individual’s actions and large-scale environmental harm may be extremely difficult. International criminal jurisprudence has struggled with similar issues in cases involving mass harm, such as *Prosecutor v. Katanga*, where the ICC examined the complexities of individual criminal responsibility in collective crimes.¹¹⁷¹ In the context of ecocide, attributing criminal liability to corporate executives, state officials, or military commanders would require sophisticated legal doctrines and scientific evidence, which may complicate prosecutions.

Political resistance from states constitutes another significant obstacle to the criminalisation of ecocide. International criminal law is fundamentally based on state consent, and amending the Rome Statute to include ecocide would require widespread political agreement. Many states, particularly those heavily reliant on extractive industries, may oppose ecocide laws due to concerns about economic development and sovereignty. Furthermore, powerful states that contribute significantly to global environmental degradation may resist international accountability mechanisms. This mirrors the reluctance of some states to accept ICC jurisdiction over war crimes and crimes against humanity, as seen in the non-ratification of the Rome Statute by major powers. Such political

¹¹⁷⁰ *Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06, Judgment pursuant to Article 74 of the Statute (14 March 2012).

¹¹⁷¹ *Prosecutor v. Germain Katanga*, ICC-01/04-01/07, Judgment pursuant to Article 74 of the Statute (7 March 2014).

realities could hinder the universal acceptance and enforcement of ecocide as an international crime. Jurisdictional and enforcement challenges further complicate the criminalisation of ecocide.

The ICC currently exercises jurisdiction primarily over individuals from states parties to the Rome Statute or situations referred by the United Nations Security Council. Environmental crimes often occur in states that are not ICC members, limiting the Court's reach. Moreover, international criminal proceedings are resource-intensive and depend heavily on state cooperation, which may be lacking in environmentally sensitive cases involving powerful economic interests. The experience of the ICC in enforcing arrest warrants, such as in *Prosecutor v. Al Bashir*, demonstrates the difficulties in securing state cooperation even for core international crimes.¹¹⁷² Similar challenges could arise in ecocide prosecutions, potentially rendering the law ineffective in practice.

Despite these challenges, the future prospects of criminalising ecocide are increasingly promising. There is a growing global consensus that environmental destruction poses an existential threat to humanity and must be addressed through stronger legal mechanisms. National courts and international tribunals have begun recognising the importance of environmental protection within human rights and international law. In *Advisory Opinion OC23/17*, the Inter-American Court of Human Rights recognised the right to a healthy environment as a fundamental human right, even beyond national borders.¹¹⁷³ Similarly, in *Urgenda Foundation v. State of the Netherlands*, the Dutch Supreme Court held that the state had a legal duty to reduce greenhouse gas emissions to protect human rights.¹¹⁷⁴ These

cases demonstrate an emerging judicial willingness to link environmental protection with legal accountability.

The recognition of environmental harm in international humanitarian law also strengthens the prospects for criminalising ecocide. The International Court of Justice (ICJ) in the *Legality of the Threat or Use of Nuclear Weapons Advisory Opinion* acknowledged that environmental considerations are relevant in assessing the legality of military actions.¹¹⁷⁵ Additionally, the *Environmental Modification Convention (ENMOD)* and *Additional Protocol I to the Geneva Conventions* prohibit widespread, long-term, and severe environmental damage during armed conflict. These legal developments indicate that the international community already recognises extreme environmental destruction as unlawful, providing a foundation for expanding criminal liability during peacetime.

The independent expert panel's proposed definition of ecocide in 2021 marks a significant step toward formal recognition. The proposed definition seeks to balance legal certainty with environmental protection by criminalising unlawful or wanton acts committed with knowledge of a substantial likelihood of severe and widespread or long-term environmental damage. This formulation aligns with existing international criminal law principles, such as knowledge and intent, and could be incorporated into the Rome Statute through amendment. If adopted, ecocide would join genocide, crimes against humanity, war crimes, and aggression as a core international crime, symbolising a transformative shift in international legal priorities.

Another promising development is the growing movement toward corporate accountability for environmental harm. While the ICC does not currently have jurisdiction over corporations, domestic legal systems are increasingly

¹¹⁷² *Prosecutor v. Omar Hassan Ahmad Al Bashir*, ICC-02/05-01/09, Decision on the Prosecutor's Application for a Warrant of Arrest (4 March 2009).

¹¹⁷³ *Inter-American Court of Human Rights, Advisory Opinion OC-23/17, Environment and Human Rights* (15 November 2017).

¹¹⁷⁴ *Urgenda Foundation v. State of the Netherlands*, Supreme Court of the Netherlands, Judgment of 20 December 2019.

¹¹⁷⁵ *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, ICJ Reports 1996.

recognising corporate criminal liability for environmental offences. International legal discourse is also exploring mechanisms for holding corporate actors accountable under international law. Criminalising ecocide could indirectly impose accountability on corporate leaders and decision-makers, promoting sustainable business practices and strengthening global environmental governance.

Furthermore, criminalising ecocide would advance the principle of intergenerational justice. Environmental destruction disproportionately affects future generations, who have no representation in current political and legal processes. Recognising ecocide as an international crime would affirm the responsibility of present generations to protect the environment for future generations, reinforcing the principles of sustainable development and environmental stewardship. This normative shift could influence international treaties, domestic legislation, and corporate policies, fostering a more sustainable and equitable global legal order.

CONCLUSION

Environmental crimes and the emerging concept of ecocide highlight the urgent need for stronger legal mechanisms to protect the planet from irreversible harm. Traditionally, environmental law has focused on regulatory compliance and state responsibility, but such approaches have proven insufficient in addressing large-scale ecological destruction caused by state and corporate actors. The recognition of ecocide as an international crime represents a significant shift toward treating environmental destruction as a grave offence under international criminal law.

This paper has explored the conceptual development of environmental crimes and ecocide, examined the existing international legal frameworks, and analysed the prospects of recognising ecocide within international criminal law. It has also identified key challenges, including definitional ambiguity,

difficulties in attributing responsibility, political resistance, and enforcement limitations. Despite these obstacles, growing judicial recognition of environmental rights, national legislative developments, and global advocacy efforts indicate an evolving international consensus on the need for criminal accountability for severe environmental harm.

The criminalisation of ecocide would strengthen global environmental governance, promote corporate and state accountability, and advance intergenerational justice by safeguarding the rights of future generations. Ultimately, recognising ecocide as an international crime would affirm that the protection of the environment is a fundamental concern of humanity and an essential component of international justice. The future of international law must therefore embrace ecocide as a core crime to ensure sustainable and equitable global development.



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