

1. TITLE: WHAT IMPACT WILL IT MAKE ON JUSTICE AND ENVIRONMENTAL ACCOUNTABILITY IF ECOCIDE IS CRIMINALIZED?

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3. ABSTRACT

With the increasing environmental crisis across the globe, ecocide has achieved more widespread recognition and broader awareness. It is high time we recognised ecocide as 5th International Crime under the Rome Statute (International Criminal Court,1998) since the existing legal provisions lack regulations or frameworks. The focus is to solve the paradox of how can destruction of the environment during a war is crime, and the same destruction in peacetime is not considered a crime. The individuals or corporations must be held accountable for the collapse of biodiversity and the displacement of communities. There is a need for the creation of new justice mechanisms like national laws, an environmental tribunal or a special court dedicated just to ecological justice. This paper aims to examine the potential impact of criminalisation of ecocide and establish criminal liability for environmental harm by imposing sanctions and reinforcing justice. The cooperation between international organisations can help the authority to prosecute individuals, corporate leaders, and state actors responsible for large-scale environmental harm. We require political commitment and global cooperation for implementing ecocide laws and effective enforcement. Ecocide laws will drive the corporations and individuals into adapting new and healthier ways that can hold polluters accountable. Also, the government can take significant steps

towards protecting the environment and promoting sustainability. It will support in achieving the sustainable development goals 13, 14 and 15 by compelling environmental stewardship across all sectors. Finally, the paper affirms a widespread support is needed to ensure that environmental havoc is no longer met with impunity but with justice.

KEYWORDS: Ecocide, Criminalisation, Environment SDGs, Liability.

4. INTRODUCTION AND BACKGROUND

3.1 Historical Background

From Agent Orange in Vietnam to oil-soaked rivers in the Niger Delta, from the choking gas of Bhopal to the melting corals of the Great Barrier Reef bleaching in Australia. While there are courts which prosecute genocide, crimes against humanity, war crimes and the crime of aggression, there is no international mechanism to categorise them as criminal acts deserving of serious legal scrutiny. This is the void that the concept of ecocide seeks to fill.

Ecocide, derived from the Greek word “oikos” (home) and the Latin “caedere” (to kill) and the literal meaning is “killing our home.” In 2021, a legal definition of ecocide was drafted by an independent panel of jurists, considering it 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 being caused by those acts.”* (Stop Ecocide Foundation, 2021, p. 2).

Currently, the international legal system lacks sufficient tools to prosecute those responsible for ecological destruction, and corporations and state actors responsible for severe environmental damage often avoid criminal liability. The most they face are regulatory fines or civil litigation, penalties that are unlikely to be effective deterrents. Classifying ecocide as an international crime would elevate environmental preservation to a top-tier

legal priority, marking a significant shift in the normative understanding of international law. Additionally, making ecocide a crime would serve as a preventative measure by encouraging changes in corporate and political behaviour through the threat of prosecution.

This article specifically considers the question: *How will the criminalisation of ecocide affect justice and environmental responsibility?* It examines the reconfiguration of international norms, on the access of victims of environmental harm to legal remedies and to justice, on the accountability of powerful actors, and the elaboration of a narrative of legal transformation for the protection of the environment.

5. PROBLEM STATEMENT & RESEARCH OBJECTIVE

Despite a growing climate emergency and recurring environmental disasters happening like climate crises, mass deforestation, biodiversity collapse, and pollution-induced disasters, environmental crimes are not treated with the utmost urgency and gravity they deserve. Various States and multinational corporations often act with impunity, prioritising economic growth and profit over environmental sustainability, due to which vulnerable populations and ecosystems suffer irreparable damage. The failure to include ecocide as an international crime within the Rome Statute leaves a glaring lacuna in international criminal law.

It offers a basis to shift environmental regulation from reactive damage control to proactive ecological protection. Though it has the potential to transform, ecocide is a legally unreconstructed and politically charged term. This research attempts to bridge the gap currently missing by examining the deterrent value, judicial potential, and institutional implications of criminalising ecocide.

This research aims to examine the potential impact of recognising ecocide as the fifth international crime in the Rome Statute. The study also aims to determine whether criminalising ecocide would lead to the development of new justice frameworks, such as environmental courts or tribunals, and contribute to the realisation of SDGs 13, 14, and 15. Through case studies like the Niger Delta oil spills and Amazon deforestation, the research will demonstrate how ecocide law can close accountability gaps, safeguard ecosystems, and promote intergenerational and environmental justice.

6. THEMATIC LITERATURE REVIEW

5.1. The discourse in making the corporation liable for ecocide as a crime is supported by case law, international frameworks, and works by jurists in supporting the notion. The study by Polly Higgins (2013) mainly emphasised the role of human agency in defining ecocide, with the identification of the entities that can be responsible for ecocide. This also goes simultaneously with the theory and study by Vanderhein (2008) on climate justice, while emphasising that principles such as the polluter pays doctrine must not be in theory, but should be legally enforceable for better implementation.

5.2. The UK Supreme Court's ruling in the case of *Okpabi v. Royal Dutch Shell (2021)* further established that not only the parent company but also its subsidiaries can be held accountable for not adhering to the environmental standards. Furthermore, India's framework for environmental protection also mandates companies to allocate the portion of 2% of their profits to CSR activities, which include environmental safety. (Bhopte, 2024) The imposition of directorial liability can also be seen in the *UK Manslaughter and Corporate Homicide Act, 2007*, which even prosecutes the gross negligence which leads to death. The frameworks and the decision also show that there is a growing recognition of corporate obligations; however, there are lacunae are still there in recognising it as an offence.

5.3. Additionally, at the international level, the Rome Statute only penalises environmental destruction during the situation of conflict but does not hold any corporation liable on a general basis. This again raises concern about criminalising ecocide (European Commission n.d.). From the view of Schwegler, we can understand that sanctions alone are not sufficient; a normative shift must be taken.

It is aptly said by Verzola (2004) that corporations are driven by the motives of profit, which often leads to the conflict of environmental safety. Hence, it necessitates legal intervention. It was also argued that the concept of strict liability in this context will stifle economic expansion (Jackson).

5.4. In conclusion, this literature reveals a consensus that criminalising ecocide is crucial for dismantling corporate impunity, and the impact will lead to regulations like executive accountability, formulation of legal systems to bridge the gaps between theory and practicality. This research also shows that criminalising ecocide will lead to minimising environmental damage on a large scale at the global level.

5.5. Defined by the International Expert Panel, ecocide is only punished during wartime. Vague legal language like "with knowledge" allows those who harm the environment to evade their liabilities. Cases like *MC Mehta v. Union of India* show the important role of activism, but it alone is not sufficient. Legal scholars like Tsilonis call for judicial bodies that specifically address ecocide. Emotional reaction and speeches will not work; actual implementation of laws that punish ecocide is crucial.

5.6. Literature exists among authors and within the law illustrating overwhelming endorsement of the criminalisation of ecocide to provide global justice. Higgins, Short, and South (2013) in their book *Protecting the Planet* opine that international law should give legal recognition to ecocide to address the responsibility gap left by environmental law. They again state that legal recognition would be symbolic as well as functional in changing cultural patterns with the creation of tools of enforcement. Liao and Pranav (2024) in their paper *Ecocide and Accountability: Legal Innovation or Moral Necessity?* They further expound on how the law of ecocide can move forward from retributive justice. They contend that the laws should include restoration and prevention as inherent, shifting the way industries approach environmental risk assessment.

5.7. Their authors cite that criminal culpability needs to be complemented by wider ESG and sustainability frameworks. The UNEP and PRI (2022) report, *ESG, Due Diligence, and Environmental Harm*, has condemned the ESG models as unable to stop irreversible damage unless such a risk will have to be attributed to economic or criminal sanctions. The authors' view is that criminalising ecocide will increase the stakes, something that will force companies to have better environmental protection and due diligence. Kysar (2020), *Regulating from Nowhere*, is a normative thesis and maintains that contemporary legal regimes must acknowledge obligations to future generations and nonhuman persons. He views ecocide as a crucial middleman between legal rules of legal enforceability and environmental ethics. Ultimately, the Stop Ecocide International Expert Panel Report (2021) demonstrates it is feasible to produce a legally binding definition of ecocide.

6. METHODOLOGICAL OVERVIEW

This research adopts a multi-method qualitative approach, integrating legal doctrinal analysis, comparative case study methodology, normative inquiry, and thematic evaluation, all adapted to the subject area of ecocide's criminalisation and its implications on justice and environmental accountability.

6.1. Doctrinal Legal Research Methodology

The essence of the study revolves around doctrinal research methodology, which helped in critically examining the existing legal frameworks and interpretations of the various statutes principally concerned with the concept of ecocide. The doctrinal legal research methodology is included with a systematic examination of legal sources, which are the Rome Statute, the Stop Ecocide Foundation's 2021 Draft Definition, and domestic constitutional and environmental statutes, notably those of India, the Environment Protection Act, 1986.

Additionally, precedents by the honourable judiciary, which include *MC Mehta v. Union of India*, and a landmark international case, which is *Gabčíkovo–Nagymaros Project (1997)*, were also analysed to examine the shifting paradigms of interpretation and enforceability of ecological rights. The paper critically evaluated how the inclusion of ecocide has ramifications on the Rome Statute with the international legal norms in favour of environmental protection.

6.2. Comparative Case Study Analysis

To study the practicality of the repercussions of ecocide's criminalisation, the study in the paper focused on the comparative case study approach. These included:

- The Niger Delta oil spills, to evaluate the corporate impunity and the executive's accountability;
- The Vietnam War's use of Agent Orange, for its legacy of ecocide, wartime conduct;
- The Deepwater Horizon oil spill, focusing on the legal loopholes in corporate responsibility.

6.3. Normative and Theoretical Analysis

The study also incorporated normative analysis to delve into the jurisprudential rationales for criminalising ecocide. It has examined theories such as the “polluter pays principle,” strict and absolute liability, to understand the theoretical aspect with the involvement of deterrence also utilised how criminalising ecocide could Influential theories of deterrence and compliance were also utilised to argue how criminalising ecocide could reform the global environmental governance, mainly among state actors and corporations.

The normative analysis is supported by the evidence of shifting international norms; it has also examined the policy frameworks, such as the EU Environmental Crime Directive (2023) and the demonstrable progressive laws in countries like France, Belgium, and Scotland, highlighting the evidence towards criminalising ecocide.

6.6. Thematic Integration and Policy-Centric Evaluation

The research methodology also incorporated the thematic integration and policy evaluation by comparing the international development targets, comprising of UN Sustainable Development Goals 13,14 and 15. This module analysed the potential capability of criminalisation of ecocide in achieving climate mitigation, protection of marine life, and land ecosystems protection with the interplay between legislative advancements and environmental resilience.

7. CORE FINDINGS

The core findings suggested the after-effect of criminalisation of ecocide to address systemic gaps facing under environmental justice. The analysis reveals-

7.1. The Legal and Normative Shifts

The notion of accountability, imposing penalties and other reputational consequences, can only be done when ecocide is criminalised. As of now, the Rome Statute only deals with environmental destruction in wartime and leaves peacetime ecocide unpunished. Furthermore, case studies such as *Okpabi v. Royal Dutch Shell (2021)*, the *Niger Delta Spills* examined how the corporations protect themselves from liability. The after-

effect of criminalising ecocide will lead to the imposition of civil settlements, liabilities on the executives of the corporations, state actors, and will eventually strengthen the “polluter pays principle.” Holding corporations accountable would lead to the adoption of eco-conscious activities, and additionally, it will also shift the responsibility to executives, as they are the decision-makers. However, critics argue that challenges in including mens rea (intent) may hamper the enforcement, which is now raising concerns about the need for strict liability.

7.4. Judicial Enforcement and Implementing Institutional Mechanisms

On one side, judicial activism plays a crucial role in the advancement of environmental justice and on the other side, the domestic institutions or specialised courts, tribunals will help in safeguarding the global ecosystem. It is powerful but limited without any codified legal mandates. The finding also argued that the inclusion of procedural clarity, judicial independence is missing in the traditional courts.

7.5. Aligning the goals of SDGs with the compliance of International Agreements

The findings affirm that criminalising ecocide directly supports SDGs 13,14, and 15 by compelling environmental stewardship across all sectors. The findings in the paper critically observed that establishing ecocide laws will deepen compliance with international agreements like the Paris Agreement through stringent law obligations. Countries such as France, Belgium have already incorporated ecocide within their regional frameworks, which again shows the viability.

8. INTERPRETATION AND ANALYSIS

8.1. Global Blind Spot and Legal Gaps

Ecocide, a term still unfamiliar to many.

Defined by the International Expert Panel (2021) (Legal Definition of Ecocide Drafted by Independent Expert Panel — Stop Ecocide International, n.d.), “*Ecocide means 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.*”

This section explores how criminalising ecocide can empower judicial activism and trigger NEW judicial mechanisms for environmental justice. Criminalisation prevents greenwashing practices, where companies may appear eco-friendly on the surface while continuing to harm the planet (Minkova,2024).

Many escape liability even after causing significant environmental harm by citing excuses like "We create jobs", "It wasn't intentional," "We paid fines,.". This shields them from real consequences, no jails, no fines, no accountability. The urgency is real: delays in criminalising ecocide will jeopardise both the environment and human life. This disconnect between appearance and accountability reveals the global blind spot in ecocide law!

At the international level, the International Criminal Court (ICC) currently addresses environmental harm only during wartime. Lawyers are now advocating to extend jurisdiction to peacetime harm, so destruction by states or corporations no longer goes unpunished. Unlike other 4 core international crimes, ecocide still lacks criminal penalties at the ICC (Minkova,2021). This gap leaves ecocide vulnerable to excuses and legal loopholes.

8.2. When Nature Suffers in Silence, Because It Has No Defender!

Consider the Vietnam War (McElwee, 2020), where Agent Orange and Napalm were used recklessly. The soil, rivers, and forests of Vietnam still bear the scars. Nature was not at fault, yet it suffered endlessly. What did they gain? Not victory, but devastation. *MC Mehta v. Union of India* involved a gas leak in Delhi. The company cited economic harm, but the Honorable Supreme Court of India introduced absolute liability (if you run a dangerous industry, you are responsible, no excuses, no exceptions).

This reflects a human-centric approach that must evolve into an eco-centric one (Minkova, 2024). We often protect the environment not out of genuine care, but because we find our objectives and profits linked to it. We engage in environmental protection when it benefits us. That mindset must change.

This shows judicial activism alone cannot prevent future harm. In the *Gabčíkovo–Nagymaros* case (CASE CONCERNING THE GABCÍKOVO-NAGYMAROS PROJECT, 1997), Hungary justified breaking a treaty

because of environmental concerns, the first time a state emphasised environmental protection as a legal justification for not fulfilling a treaty. When the case reached the International Court of Justice (ICJ), the court issued a nuanced judgment, focusing on compensation and environmental harm. These case studies expose a dangerous silence, where ecosystems suffer without legal defence.

As the global environmental predicament deepens, nature is being destroyed and desecrated on scales far beyond the capability of current governance and judicial systems to extend. As such, attorneys and human rights activists call for the establishment of ecocide, the intentional destruction of nature, as an international offence.

8.3 Will criminalising ecocide improve compliance with international environmental agreements?

The question of whether making ecocide a crime may increase adherence to the INTERNATIONAL ENVIRONMENTAL ACCORDS (IEAs) is examined in this chapter. It makes the case that making ecocide a crime can improve compliance with environmental agreements like the Basel Convention, the Paris Agreement, and the Convention on Biological Diversity (CBD) by making state officials personally liable, influencing norms, and fortifying domestic legal systems. Despite ongoing issues with jurisdiction, definition clarity, and enforcement capacity, the chapter argues that making ecocide a crime is likely to encourage treaty compliance based on empirical evidence from domestic and regional experience as well as deterrence and compliance theories.

Despite the importance of international environmental accords (IEAs) in tackling global environmental issues, state-centric duties, limited enforcement, and soft law processes have resulted in low compliance (Sands, 2018). By establishing hard law procedures similar to those for genocide or war crimes, the proposal to criminalise ecocide—defined as severe and protracted environmental destruction—aims to close this enforcement gap (Higgins et al., 2021). Through an analysis of moral implications, domestic implementation, and deterrent effects, this chapter investigates whether making ecocide a crime can improve adherence to IEAs.

8.4. Theoretical Framework: Deterrence and Compliance Theories

Actors are less likely to commit harmful behaviour if the costs—legal or reputational—outweigh the rewards, according to deterrence theory (Nollkaemper, 2011). Furthermore, according to compliance theory, when

domestic institutions are forced to conform to international standards, governments are more likely to uphold their international commitments (Voigt, 2022). Therefore, making ecocide a crime changes the cost-benefit analysis for governments by imposing criminal culpability on state actors and reputational shame.

8.6.1. Criminal Liability for State Actors

Criminalising ecocide targets state authorities and politicians who approve or tolerate extensive environmental harm, in contrast to IEAs, which often impose duties on governments without providing repercussions for people. The cost of breaking environmental commitments is increased by the possibility of being prosecuted by national or international courts (Higgins et al., 2021).

8.6.2. Expressive Function of International Criminal Law

Beyond prosecutions, the expressive power of international criminal law influences conduct. By making ecocide a crime on par with genocide, it is implied that environmental destruction is immoral and that noncompliance will hurt one's reputation (Hamilton, 2025). This normative shame puts pressure on governments to follow IEAs, even if prosecutions are uncommon.

8.7. Hard Law Complementing Soft Law

The majority of IEAs are voluntary agreements with no legal power behind them. To avoid liability under international criminal law, states would be forced to enact stronger environmental standards into domestic law if ecocide were made a crime (Sands, 2018). States that have ratified the Paris Agreement, for instance, may be legally obligated to bolster their emission reduction strategies. In the aspect of political accountability, when state leaders and officials approve ecologically harmful measures that violate international agreements, they run the risk of being prosecuted (Voigt, 2022).

8.8. European Union (France, Belgium, and Scotland)

To bring member states into compliance with international biodiversity and climate responsibilities, the EU Environmental Crime Directive (2023) makes serious environmental harm a crime (European Commission,

2023). Furthermore, France and Belgium have made ecocide a crime under their domestic laws. As an example of how criminalisation encourages adherence to international conservation accords, Scotland's planned ecocide law would hold public servants and other decision-makers accountable for significant environmental damage (Carrington, 2025).

8.6.1. “A Case Study of The Niger Delta Oil Spills”

8.6.2. Background of The Case:

Oil River, a Niger delta region in Nigeria, famous for its abundant palm oil and natural gas production, has been a victim of increasing environmental degradation due to decades of exploitative methods of oil exploration and extraction. The myriad ecosystems of the delta, like the mangroves and wetlands—crucial for the region’s biodiversity, both terrestrial and marine, have taken a devastating hit due to repeated oil spills and other negligent acts.

To add insult to injury, the socio-economic conditions of the region, like poverty and corrupt government systems, only hinder the efforts made to address these issues.

8.6.3. Analysis Of Its Impact:

The figures (quantity) of the crude oil spilt in the region are inconsistent, but the pervasive belief is that an estimated 13 million barrels (1.5 million tons) of crude oil have been spilt since 1958 from over 7,000 oil spill incidents, resulting in a yearly average of about 240,000 barrels (Brisibe, 2013).

The inconsistency in acquiring the exact quantifiable data of the crude oil spilled is attributed to several factors, like certain spill sites being inaccessible due to swampy conditions, and/or security concerns; remoteness, with spills occurring away from community locations; delayed detection of the incident; the high volatility of the Nigerian crude oil, causing an estimated 50% to evaporate within 24 to 48 hours; under-reporting by the culpable company; and governmental oversight” (Steiner, 2010)

The impact of such unchecked oil spills spanning decades results in long-term effects, such as chronic health issues and degradation of ecological systems. By quantifying the effect, researchers can better assess the severity of the issue and identify areas for inspection and intervention.

8.6.4. Stakeholder Analysis:

The analysis would mainly help implore stakeholders to share a collaborative and communicative relationship, for instance, while an oil company implements a speedy response to the oil spills, government agencies can oversee regulatory tasks and enforcement of the laws, minimising conflict, and miscommunication.

Thus, this analysis would promote accountability in the oil companies, since the stakeholders are at stake, and also impel government agencies and the local communities to respond and participate in the early detection and investigation of these oil spills. Government systems must also contribute to the prevention of the emerging climate concerns by adhering to their fundamental duties and ensuring there is no oversight in the enforcement of the laws. It is dire that Oil Companies provide transparency, ensure accountability, and prioritise safety in the event of these laws being enforced or otherwise.

8.9. Challenges and Limitations

Despite its promise, several obstacles might reduce how successful ecocide prosecution is:

1. Limited Jurisdiction – Major polluters may not ratify ecocide under the Rome Statute (Voigt, 2022).
2. Definition Clarity – Overly broad or narrow definitions may lead to political misuse or under-enforcement (Higgins et al., 2021).
3. Enforcement Capacity – Many states lack the judicial and investigative capacity to prosecute ecocide (UNEP, 2019).

8.7.1. Norm Creation and Peer Pressure

Just as genocide laws strengthened standards against mass crimes, criminalising ecocide establishes a worldwide environmental standard. States that pass ecocide laws might face diplomatic and reputational pressure to demonstrate that they are upholding their international environmental obligations (Hamilton, 2025).

8.8 Corporate Accountability in the Offence of Ecocide

8.8.1 From Profit to Prosecution: Defining Corporate Responsibility

Examining the implications of criminalising ecocide within the scope of corporate accountability involves human agency, an aspect that Higgins incorporates into the definition. The inclusion of the term 'human agency' signifies

the identification of individuals or entities that may be held responsible or accountable for committing ecocide (Polly Higgins, 2013). Jurisprudence emphasises that corporate liability frequently depends on demonstrable knowledge of risks and a failure to act prudently. Even though there are several cases which support corporate liability for environmental damages on a mass scale. Such as “*Okpabi v. Royal Dutch Shell (2021)*”. *In this case, the UK Supreme Court resolved an important complication of holding legal responsibility of the parent company in cases of environmental destruction caused by the affiliates. The above issue was regarding the alleged oil spills, and according to the company’s policy, RDS was responsible for several activities, such as health, environmental standards. The court held that the company had the responsibility to take care based on its management of activities.* (Gosain, 2025) Criminalising ecocide would fundamentally shift the burden of proof onto corporations, compelling them to disprove negligence or to justify their actions under principles such as the “polluter pays” doctrine. Therefore, while strict liability may streamline prosecution efforts, existing legal frameworks already encompass corporate accountability through systems that focus on prosecution. For example, on the national level, India has made a framework, which is the Environment Protection Act, 1986, which imposes corporate liability to prevent environmental pollution. Moreover, the Companies Act, 2013, has also included the importance of responsibility towards environmental safety through CSR activities. It requires every company to spend 2% of its net profit on CSR activities (Nitesh Bhopte, 2024). In the UK, the “*Corporate Manslaughter and Corporate Homicide Act 2007*” holds companies liable for wilful neglect that amounts to death (Edwards). It is worth noting that on the international level, for instance, the European Union made corporations liable for any environmental damage through the polluter pays principle and intergenerational equity (Commission, n.d.). Similarly, on the international level, Article 8(2)(b)(iv) of the Rome Statute deals with the penalising of intentionally launching an attack which is already in the knowledge that that attack will cause incidental loss of life, civilians, and the environment. If ecocide is criminalised, then the provisions related to corporate liability in terms of ecocide can be incorporated. Without a shadow of a doubt, Corporations have complications when it comes to defining parameters because they capitalise on commodity production: the more they produce, the more profit they earn (Verzola, 2004-6-2). There has been a lot of development in the tools that have to be applied in cases of environmental crime when it comes to the matter of responsibility and reparation. It is aptly said by Vanderheiden that an effective and efficient international climate change regime must be based on responsibility

and compensation (Polly Higgins, 2013). However, the said principle will remain hollow unless the corporations are made legally answerable for the destruction of ecology. The implementation will automatically lead to responsibilities that must be taken by corporations, and they cannot escape only by pleading ignorance in court. Criminalising ecocide will also help in imposing liabilities and prosecutions on individual executives instead of piercing the corporate veil, which can be understood from the Bhopal Gas Tragedy (Ipe, 2005). Furthermore, it will lead to the implementation of a set of norms instead of just sanctions, as the effectiveness of sanctions is not the only criterion (Schwegler, 2017).

8.8.2. Individual Accountability

When it comes to corporate accountability and considering it a corporate crime, it should be regarded as a collective offence. The decisions made by companies are directed by the CEOs. Moreover, shareholders, board members, directors, and other executives are also involved. A major issue is that companies often evade all liability by claiming ignorance, and no accountability is imposed on the individual who directs the company's actions. There are several reasons for this, but one of them is related to negative publicity for the company which creates distrust among citizens and investors. (Jackson; Jackson). Hence, the criminalisation of ecocide will open a path for corporate and individual accountability. The process will go through the hurdles as it goes between the acceptance of mens rea, and if it is not, then the involvement of actus reus in the damage caused by the company. It is high time to take a step towards the theories into practice, from the traditional scope to the advanced scope in the interpretation. International criminalisation of ecocide law can be an effective tool, and it could become a formidable tool in dismantling corporate impunity and negligence.

6.2 Judicial Activism: Potential and Critique

Legal recognition of ecocide could empower courts when traditional law remains silent. Yet judicial activism invites critique: overreach, confusion, and risks to democratic balance. Differing judicial views often lead to inconsistent regulation & unclear policy outcomes (Singh, 2024). That is why clarity is essential, especially in defining ecocide. Vague terms like “with knowledge” create legal gaps (Palarczyk, 2023). Entities may cause long-term harm and still avoid accountability by claiming ignorance.

The case of *MC Mehta v. Union of India* demonstrates how activism can play an important role when companies use excuses like job creation or lack of intent to evade responsibility. But courts alone cannot do it all. We need dedicated judicial mechanisms, specialised institutions, and precise laws. Can criminalisation be the link between activism and new institutions? YES!

8.9.1. From Activism to Institutional Mechanisms

Tsilonis argues that the ICC's limited jurisdiction can't protect nature fully. Instead, a separate international judicial body with autonomy and ecological expertise may be necessary (Tsilonis, 2024).

The groundwork is already laid (Gairdner, 2025) :

- Council of Europe's Convention - The Council of Europe Convention (2025) is an international treaty signed by 46 countries. It asks governments to criminalise serious environmental harm and build national laws around it.
- EU Environmental Crime Directive – The EU Environmental Crime Directive is a binding law across all EU states, enforcing penalties like up to 10 years imprisonment and multi-million euro fines for ecocide-type harm. Even though these countries are members of the Rome Statute, they didn't wait for ECOCIDE to be added as the 5th international crime.

India's National Green Tribunal (NGT) is a step toward environmental accountability, but it suffers from limited jurisdiction, backlog delays, & weak implementation (Bajpai & Shagun, 2025).

If ecocide is criminalised, India must either expand the NGT's mandate to include criminal powers or establish specialised environmental courts under the criminal justice system. Without structural reform, however, judicial power remains symbolic. And, without precise laws, even new judicial bodies will lack teeth.

As it was aptly said in the report "Be Reflective, Be Normative" (Minkova, 2024), we should not follow the law or old legal rules blindly. What was valid yesterday may not be valid today.

8.10.1. The Criminalisation of Ecocide Supports the Achievement of SDGs Goals 13, 14, and 15

8.10.2. Introduction

The frequent large-scale destruction of the environment has given rise to many ecological and socio-economic concerns, with the term Ecocide gaining rapid and rightful attention, adapted to refer to the deliberate damage incurred to the environment by organisations and individuals, while also underscoring the severity of the acts and their harmful and long-term impacts on the ecosystems. Ecocide laws aim to incentivise global response to address the growing concerns towards climate change, loss of biodiversity, both terrestrial and marine, and ensure proper working of the mechanisms of our ecosystems. Therefore, it will aid in achieving the Global Goals set by the United Nations.

8.10.3. Ecocide: The 5th International Crime

The need to recognise ecocide as an international crime under the Rome Statute. (International Criminal Court, 1998) Arises from the escalating severity of environmental destruction and its serious implications for global peace, security, and human rights.

Criminalising ecocide would ensure that the gaps in international law are bridged and the gulf between dash and dash lessens. Through this enforceable substantive approach, the international community's commitment towards the protection of the environment would also be more evident and would not be limited to surface-level procedures that like as reporting and transparency. This would also strengthen mechanisms that help enforce these laws and reach beyond the capacities of voluntary deference, which is a rarity, and will help eliminate the systems at the source by working as a deterrent to prevent environmental destruction rather than putting more time, money, and energy into post-damage reparations. (M., December 2, 2024).

8.10.4. Strengthening Sustainable Development Goals

8.10.5. “Climate Action” Sustainable Development Goal – SDG 13:

Ecocide laws will drive the corporations and individuals into adapting new and healthier ways while carrying out their functions, and by holding the polluters accountable, reducing their deleterious role in climate change, and into adopting cleaner practices, since they would aid in this. With the recognition of ecocide as a crime, governments can take a significant step towards protecting the environment and promoting sustainability. Thus, penalising environmentally destructive activities will give an incentive to both developed and developing nations, their corporations, and individuals, to invest more capital and conscience towards sustainable practices.

8.10.6. “Life Below Water” - SDG 14: A Look into Marine Ecosystems

As one of the main sustainable goals, Life Below Water requires stringent laws for protection and conservation, with the increasing destructive actions on humans targeted at marine life. The United Nations has targeted the water bodies as one of the Global Goals because over-fishing, oil spillage, ocean-acidification and plastic pollution are on the rise since technology has spiked the world. Water occupies 70% of the Earth, due to which habitats on land rely on the water and food for survival. Penalisation of these harmful, destructive activities is essential, as the need of the hour, where individuals and companies alike are paying their dues for the long-term harm caused to the ecosystem, and laws which promote sustainability and eco-friendly aquaculture.

8.10.7. “Life on Land” - SDG 15: Terrestrial Exploration

This global goal centres towards terrestrial ecosystems. The injurious and detrimental acts of land degradation, invasion of alien species and destruction of habitat have perennial consequences. The rapid climate change and land desertification are among the few irreversible causes of these activities for both humanity and dominion. Ecocide as a crime, when internationally recognised, will serve as a beacon towards protecting the planet's ecosystems and their integrity, and advancing the Sustainable Development Goals.

7. POLICY AND PRACTICE RECOMMENDATIONS

This paper focuses on the impact of the criminalisation of ecocide as the 5th International Crime on environmental justice and accountability in several aspects.

- Referring to the *Neubauer, et al. v. Germany case* (CASE CONCERNING THE GABCÍKOVO-NAGYMAROS PROJECT, 1997), where the Court held that Article 20a of the Basic Law of the Federal Republic of Germany concerns protecting the climate through legislative measures. We have observed that in recent years, the campaign to criminalise ecocide has gained momentum worldwide. Additionally, India receives particular focus on examining how ecocide could bolster environmental rights under Articles 21, 48A, and 51A(g) of the Constitution of India and judicial enforcement.
- The main purpose of the criminalisation of Ecocide is to prosecute entities for harm such as Ocean damage, Land and Oil contamination and Air pollution. Prosecutions at the international level will give a chance for victims of Ecocide to get compensation for the loss of natural resources and their livelihood. We need to focus on Universal Jurisdiction to hold perpetrators liable.
- It is high time we needed an amendment to the Rome Statute of the ICC, for which a two-thirds majority vote is required by state parties to pass a legislative law. The aim is to recognise Ecocide as a crime in times of war as well as peace.
- All heads of state and government need to support the integration of ecocide into international criminal law. Moreover, we need to call on civil society, youth, and individuals to join in advocating for the criminalisation of ecocide.

8. CONCLUSION

The criminalisation of ecocide would bring about a significant global change in how the world addresses environmental damage. Criminalisation involves the imposition of real and legal consequences, from which no one can escape. Ecocide has the potential to reverse this trend. It is not solely about punishment; it also concerns justice for indigenous groups, fishing villages, and farming families. It is high time to recognise that Earth is not about conducting bad business; it is about preventing crimes against both the future and the present. Criminalising ecocide could play a vital role in protecting the environment, strengthening legal enforcement, and upholding sustainable development goals. The path forward will not be easy; resistance from vested interests is inevitable. However, as species vanish and wildfires intensify, criminalising ecocide is not radical but a crucial step. As the

paper demonstrated, criminalisation can have a positive impact on several aspects, including environmental justice, holding states accountable, regulating corporations, and enabling the judiciary to contribute effectively.

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