

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

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# **ECOCIDE AS AN INTERNATIONAL CRIME: CURRENT DEBATES, EMERGING LAW, AND LEGAL FEASIBILITY**

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## **Abstract**

As the concept of ecocide from 2021 to early 2026 became mainstream science, the case to prevent an extensive and irreversible destructive international crime emerged from environmental activism to international criminal law research.

This paper analyses it and analyzes the impacts in the context of the current world law debate. The paper traces several origins for ecocide, including the Vietnam wars' chemical wars. It examines the definition of nature of the species established by the Independent Expert Panel in 2021. It will also cover and analyse what is the mens rea-discussed issue of environmental crimes that has been a source of controversy for the scientists who study it even as a group in the international court.

Key to this paper is that it presents an idea based on a serious Rome statute amendment that was proposed by three Pacific island states in September 2024, as well as the EU Environmental Crime Directive taken on by the Council of Europe in May 2024 and the first environmental crime treaty signed with a world state-like climate law in May 2025, as well as by the ICC Office of the Prosecutor's Environmental Crimes Policy and the International Court of Justice's landmark advisory opinion regarding states' obligations to the environment in July 2025 (2016). In this way, ecocide criminalisation has taken a new dimension, one not based on whether it might occur, but, rather, how it should be interpreted, what sort of mental toughness is needed, if any, the extent to which people can be held accountable in the ICC case alone, and how more enforcement may be needed as per the objectives of the law. These are the big questions of the field in 2026, and any serious probe of ecocide's legal status must now be with them.

**Keywords:** *Ecocide, International Criminal Court, Rome Statute, IEP Definition, Mens Rea, Belgium Criminal Code, Council of Europe Convention on Environmental Crime, ICJ Advisory Opinion, EU Environmental Crime Directive, Rights of Nature, Corporate Criminal Liability, Environmental War Crimes*

## Introduction

The early decades of the 21 century have left behind an environmental landscape quite sobering. Global average temperatures have gone further than ever before, going above 1.5°C above any previous decade of temperature during years since pre-industrial times. As a result, almost one million plant and animal species have been annihilated. But deforestation continues to grow faster than anything that makes any sense nowadays in the world and more so than existing measures. On top of that we are now seeing a growing push to arrest the most brazen ecocide in history to hold people accountable for destroying the nature of the world's natural ecology in mass destruction.

The term itself is not very new. It entered the conversation internationally in 1972 when Swedish Prime Minister of Palme stressed that he would not tolerate the chemical defoliation in Vietnam under attack against humanity. Legal experts (and international prosecutors) argued until the late 1970s for its incorporation in international criminal law but failed at a time when it needed one more chance to go into protection. The statute of Rome of 1998 which established the International Criminal Court (ICC) never considered such a category with respect to environmental crime and only gave a limited protection of Article 8 (2)b(iv), only applicable when environmental damage is taken into account (in war) that turns out to be worse than one has expected of it in theory.

What is significant right now is that much is not so a matter of the kind of attention the world has paid us. Vanuatu, Fiji and Samoa at the same time have filed a proposal to amend the Rome Statute to include ecocide as a fifth crime under the jurisdiction of the Court of Justice. And that's what made ecocide campaign from an idea into an issue that the Assembly of States Parties must deal with. There then started active national legislation, Belgium criminalized ecocide in February 2024 and became the 1st EU-member where its law was made binding with the International Court of Justice's Convention on the Protection of the Environment through Criminal Law which was also adopted in May 2025 and was followed by the other countries and also made in the US.

And then on July 23, 2025 all states found unanimously their responsibilities on climate change to follow the legal obligations in the international law, which by an international norm had resulted in binding and binding commitment from all countries to the world to keep people from harming the climate environment. In August 2013 the Inter-American Court of Human Rights made a similarly interpretable, but in that same month stated that the obligations of governments in order to prevent irreversible environmental harm, as a rule, were factio rules international law does not allow to be relaxed.

This paper has focused on one of these two goals: to describe ecocide law to date as an entity in their current state, its institutional setup, state, national and judicial commitment as of early 2026. The other objective is: how feasible is it to recognize ecocide at an ICC in terms of enforcement? The legal complexity of mens rea, jurisdiction, corporate liability and enforcement we, in our opinion, are in some ways also not able to tackle now, but scientists and politicians are.

The paper addresses three principal research questions:

1. Can ecocide be realistically recognised as a crime under international law, and what does the 2024–2026 legislative and judicial record tell us about the prospects for a Rome Statute amendment?
2. What are the principal legal challenges — definitional, jurisdictional, and evidentiary — that must be resolved for ecocide to function as an effective criminal prohibition?
3. How would the recognition of ecocide as an international crime reshape global environmental governance, corporate accountability, and the relationship between environmental law and human rights?

## **Historical Context of Ecocide**

### **Early Environmental Harm and the Limits of Legal Response**

But the history of organized human society provides very few examples of large-scale ecological destruction; historians had never been aware they were legal. Ancient civilizations salted agricultural land to render enemy territories infertile; Roman armies cut forests not only for warfare but also to deny cover to rivals; in medieval warfare water supply poisoned. So from the Norman era the English legal system had protections for forests and water supplies but this was all in service of money and estate and corporate interests; not for environmental

integrity.

Industrial revolution in the middle of the nineteenth century has been qualitatively different in some important ways: in how well it worked, how often, but in what service the economic and managerial interests in the world led to such a treatment of society had to take that into account in the making but not the war. The English Alkali Act 1863 included some early efforts to curb industrial damage to the environment through law, but at the core was economic regulation rather than rights-based and criminal prohibition.

### **The Vietnam War and the Coining of 'Ecocide'**

The concept modern ecocide is born from Vietnam War-related environmental dynamics. Between 1962 and 1971, the U.S. military deployed the herbicide Program so far called Ranch Hand, which dumped close to 20 million gallons over around 4.5 million acres of Vietnamese, Lao and Cambodian territory. Forest communities went permanently defoliated and mangrove areas were devastated— all this was possible only in the case of agriculture land. It actually was Arthur W. Galston, an American botanist, who first developed the seed control in which chemical weapons came to produce so much herbicides— in the worst case, dioxin-contaminated agent, when and when to use the term and why to describe the chemical weapons program that, in this day and age this kind of destructive damage to biodiversity was a crime made, to be considered a crime at war with other people. The following year at the 1972 United Nations Conference on the Human Environment in Stockholm - the first international environmental congress-- Swedish Prime Minister Olof Palme used ecocide to denounce U.S. behavior in Vietnam. The phrase “ecocide” gave some of the concept its first large international political resonance— it would not, however, have very immediate legal ramifications.

A second lawyer would, Richard Falk, build on this point. Falk worked out the concept of 'environmental warfare' in a report for the Carnegie Endowment for International Peace in 1973 and claimed that if humans had deliberately attacked the natural environment this war was an international crime whereas genocide was the outcome in most cases. Falk's suggestion had precedents in terms of defining, but today those wars continue to define, the field of environmental governance.

### **The 1970s and 1980s: Institutionalisation without Criminalisation**

The 1970s saw substantial institutional progress in international environmental law, though not

ecocide's criminalization. Stockholm Conference in 1972, the Nobel prize winning Stockholm Declaration -which establishes state responsible for environmental damage in other countries (and a non-governmental organisation) -led to establishment of the United Nations Environment Programme (UNEP). This is a great accomplishment. But these are the global legal institutions where state and soft law, rather than individual criminal action has been more responsible as an individual responsibility system for environmental harm.

The International Law Commission (ILC), in its 1991 Draft Code of Crimes against the Peace and Security of Mankind had proposed a provision that convicted wilful and severe damage to the environment which was to have been implemented in the 1996 revised Draft Code of which the international legal system would have been unwilling to tolerate such an element of the world's crimes on the basis of individual responsibility (and its ethical consequences) or even the right in cases of a criminal offence itself. The political structure of this omission could be seen as transparent: key industrial as well as fossil fuel producing countries objected to any legal framework that could expose their citizens to criminal prosecution for environmental conduct.

### **Ecocide in Modern Legal Discourse**

#### **Support for Ecocide as a Crime: Legal, Ethical, and Political Dimensions**

The case for criminalising ecocide rests on three interrelated factors. The first one is political. The international framework for implementing international measures have become weak in relation to mass environmental harm. Under the Paris Agreement, the Convention on Biological Diversity and UNCLOS the obligations have no enforcement mechanism but are a question of political will. If criminalisation of ecocide was possible, then society would be at the risk of shift from voluntary state submission to a direct system and penalty of individual criminalization, albeit with potentially catastrophic consequences.

The other one is ethical. As this is clearly illustrated by the evidence, the environment has a negative effect most on communities that have so far been hardest affected by it and why: indigenous peoples who need to manage their own soils at an economic and communal level and a sustainable way of living, as well as small island developing states in regions that face a sea-level threat, and farmers in the Global South more rapidly being affected by desertification and drought. To view ecocide as a crime is also to consider that the poorest among us are the victims of choices made by powerful decision makers in distant halls and capital cities.

The third foundation is practical; the climate crisis of the global community is on the rise in scale and urgency, and that calls for its very own legal response. The Kunming-Montreal Global Biodiversity Framework launched at COP15 December 2022 promises 30% global land and ocean areas to be protected by 2030 and is to protect 30% by 2030-31 at the same time. This '30x30' commitment is by far the most ambitious multilateral biodiversity resolution under consideration at the moment, yet implementation is completely voluntary with no recourse for any sort of criminal enforcement mechanism. If there is no commitment to help people in the country, when people are made and people do not do the thing, they know to have done that is the wrong thing, it's not so much an infringement as nobody being able to keep that promise and will be wrongfully punished on the basis on the basis of the state and not the law if they can't, or cannot take action. Ecocide criminalisation would address exactly this enforcement gap.

### **Opposition and Its Limits**

The major opposition to ecocide criminalisation comes from the usual places– fossil fuel industry, mining and agribusiness businesses and states with very large resource extraction interests. There's this and this and this, but critics are not simply interested in the simple concern of them who own assets as a group; they are trying differently. They put forth what's called worrying effect argument: the fear of legal action might dissuade legitimate economic activity in sectors that are potentially polluting and therefore more hazardous and the danger could stay. This is a good argument because the definition in the IEP is so broad which only has to do to the relatively severe, and to a certain extent the 'widespread' or 'long-term' kinds of harm, which seem to be limited in fact only and is in effect imposed on all the people of Earth.

Secondly, developing countries particularly those on the margins of the developed world, particularly developing countries located in the Global South and dependent on resources for an economy, fear that ecocide law might be turned into the new type of economic imperialism, but instead will simply work against developing countries which are able to exploit their own nature as much as we did (and even later in the development of countries in developed countries.) That is because of a genuine historical complaint that should receive support in any ecocide treaty through financing mechanisms and technology transfer provisions.

Third, critics question, on the one hand, what justice for environmental problems arises if the

harm goes so high to all and that is done not in individual names but with a global system of business and how this affects the global community. We must point to how, in corporate fraud, legal means work and have been applied through conspiracy and the aid and abetting of others to those who commit a criminal crime in an international market on that ground in different parts of the world.

The problem of selective enforcement is real as well: as the wealthy states as well as the powerful companies get protected while many others get hit hard for that wrong done by law enforcement systems but not with criminal punishment, is just as bad but this is not a small issue.

### **The Rights of Nature: A Complementary Framework**

The ecocide movement is engaged in intellectual dialogue with the civil recognition of the human rights of nature, and to this end, the concept that ecosystems and natural forces must be recognized by law as a matter of law, distinct from those of humans. Ecuador's 2008 constitution is the first to take the legal territory of nature into account in the constitution while stipulating that Nature or Pacha Mama, where life operates and exists, has the right, in essence, to integral respect for its existence. The Colombian Amazon was made a subject of rights in 2018 and has the right to protect itself with guardian-elected structures. The Whanganui River has been legally personified under New Zealand's Te Awa Tupua Act 2017. The ties between human rights and ecocide matter with these issues. Rights of nature frameworks are essentially a case of legal protection where ecosystems should have legal standing to come into court to implement environmental protection laws. Ecocide is about criminal liability, and both are complementary rather than diametrically opposed approaches. A rights of nature framework provides an ecosystem with legal recourse to remedy those ecosystems can't reach for; an ecocide framework provides the criminal offense to inflict severe harm to that ecosystem, making it up to each individual to bear ownership in this kind of crime-free way. In fact, they are a complete reorganization of how the legal status of the natural world is being addressed.

## **The 2021 IEP Definition and the Mens Rea Debate**

### **The IEP Definition: Architecture and Elements**

IEP's ecocide definition (unlawful or wanton acts committed with a knowledge that there is substantial likelihood of severe and either widespread or long-term damage to the environment from such acts) reflects the legal needs the Rome Statute has in place and these are some of its

key elements.

There are two types of acts which the law, 'unlawful or wanton', defines as the actus reus: illegal acts and unlawful acts constitute existing national (or international) legal frameworks. They establish ecocide as a part of a legal framework, but they cannot criminalise and can legally prevent actions that are not prohibited at that time (the actus reus). Wanton acts are acts where damage is done that can legally be done with a legal and legal view (or are still legally dangerous, such that these are not legally prohibited and done even if it turns out that any criminal actions were not unlawful under that law) and is still due to the objective standards of ecological contribution.

'With knowledge that there is a substantial likelihood' is the mental element. The IEP made it quite clear that this does not matter if any intent is behind the conduct itself— rather, harm is likely to happen in some way. This is below *dolus directus* (in intent) and above negligence but is more like *dolus eventualis* or conscious recklessness.

### **The Article 30 Compatibility Problem**

The IEP's chosen mental element has been one of the most polarising issues in post-2021 ecocide literature. Such a setting is closely linked to Article 30 of the Rome Statute, which sets the default mental element for every ICC offence: 'Unless otherwise stated, only if the material elements were committed with intent and knowledge is a person criminally responsible and liable to be punished in a crime by the Court.'

The word intention and knowledge says that the accused knew what was going to happen and wished so as to do so. This standard is much higher than the one for (substantial likelihood) which is specified in the IEP definition, and when ecocide is included in the Rome Statute (which doesn't change Article 30 at all) the Article 30 standard would be taken by an end that the IEP does not take into account: that the accused would want or knew that there would be significant environmental harm resulting in it.

There are three major positions in the literature on this issue. First, for those who favor the IEP formulation, ecocide has to be seen as an exception to Article 30, albeit unless otherwise provided, without assuming that recklessness is sufficiently excessive. That would require an amendment for the Rome Statute in which the mental element is specifically mentioned in the

scope of ecocide which would not fall out of Article 30 -so as not to cause the harm they intend to cause. Such minds can be criminal if the environmental harm is at least as likely to be the result of the damage and if not to happen due to recklessness. And those who push for this stance have made the point that we cannot make a proper sense of a person's mind that his or her behaviour is criminal when more legally reasonable would have been to prosecute his or her own conduct (e.g. if a case in the court under this kind of law were a crime). A third approach seeks a middle way through an objective formulation which is consistent with the existing ICC jurisprudence under Article 30— liability would apply where the accused knew when and why the ecological damage was probably going to be great enough the way it was in the case of that person who was the person involved, so long as she knew if they took them to the point where severe environmental harm did happen. A knowledge based standard that makes sense in Belgium is adopted here.

The mens rea debate is not an academic issue. What actually undermines it is the scope of ecocide prosecution: it is not realistic to prove ecocide in diffuse or systemic corporate operations where the organisation can credibly say that a couple of senior leadership actors had not in principle known what was the general environmental harm through the conduct of that organisation will do to the earth and hence to its economy. So an overly lenient approach to a law will produce a wrong behaviour which is much easier and more acceptable to correct with a regulation model. Ceding this balance is the key technical issue in ecocide law.

## **The ICC, the Rome Statute, and the September 2024 Amendment Proposal**

### **The ICC's Existing Jurisdiction over Environmental Harm**

The jurisdiction of the ICC over environmental harm operates via three channels. First, Article 8(2)(b)(iv) in Section 2.4 of the Hague Law also does not provide protection for the environment in armed conflict as a war crime. Second, the court said in the 2016 Policy Paper on Case Selection and Prioritisation that the OTP would consider in terms of the gravity in decision making its case selection the "crime of crimes in Rome Statute, including the destruction (or the illegal exploitation of natural resources) or the illegal appropriation of land that damage our environment etc., because an environment that is destroyed as a result may make us a subject to the violation of humanity by means of the forcible transfer of population under Rome's law 7(1)(d).

Third, there is none but limited means of criminal punishment for environmental destruction

in peacetime. The OTP's December 2025 policy on Addressing Environmental Damage using the Rome Statute contains the most systematic application of existing regulatory tools to manage these sites for environmental purposes and identifies 'environmental crimes' as Rome Statute crimes committed by means of or resulting in environmental damage and makes it a priority on our part by making the case selection of those crimes a priority to OTP. The December 2025 Policy specifically states that it does not prejudge the necessity of this statute being modified to include and include an ecocide crime since current statutes are good and bad.

### **The September 2024 Amendment Proposal: Content and Process**

On 9 September 2024 the Republic of Vanuatu, the Republic of Fiji and the Independent State of Samoa presented a joint proposal to amend the Rome Statute to include ecocide as an additional crime to this jurisdiction under the ICC. The proposal was sent to the UN Secretary-General, the depositary of the Rome Statute and the President of the Assembly of States Parties. It is a formal amendment taking into account that Article 121 of the Rome Statute binds us.

The proposed definition in the amendment closely mirrors that of IEP and specifies: '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.' The paper also contains a legal note of such definition compatibility with the Rome Statute related acts - the Article 30 one, in particular - and the existing and threatened.

In October 2024, the Democratic Republic of Congo came to the aid of the Pacific Island States and became one of the early countries in Africa which formally backed the amendment proposal. As of early 2026, at least twenty-nine other countries had publicly announced in the world to work together on ecocide law; the formal agreement of the amendment is therefore far from unanimous. A 2025 Ipsos survey by Stop Ecocide International in the G20 countries found that 72% of respondents in G20 countries voted to declare all government or business acts causing severe environmental damage as a crime under international law.

According to Article 121(3) of the Rome Statute changes to the text of an amendment are issued to all states parties within six months and this makes the issue before the Assembly of States Parties. The date of the submission of the document in September 2024 made the outcome formal at least an indicator of its rejection; we expect it to be presented in future years into the ASP working group in 2025-2026. If so it needs to be approved by a two-thirds majority of

countries according to Article 121(3) for it to be binding, under Article 121(5) in law it's only relevant for those countries which have already concluded such a deal, so is not applicable for others.

### **Ratification Prospects and the Crime of Aggression Precedent**

The crime of aggression is an instructive, but tempered—wake-up call for the ratification process. The crimes against aggression were established in the Rome Statute by adopting and ratifying the Kampala Amendments of 2010 for those states on 17 July 2018. Just 45 of the 124 States Parties have ratified the amendments (i.e., less than 40%) of the original crime of aggression and, therefore, the crime operates only among the states.

The implication for ecocide is clear. In the presence that the Rome Statute adopts amendments that include ecocide (if two-thirds of parties agree to do so), at least theoretically it will only reach those countries which follow suit. This will be unlikely to happen soon: great fossil fuel producers such as China or Russia and major manufacturing and agricultural countries as well as countries like Germany and France are clearly not first to ratify them.

This isn't to deny the value of an ecocide amendment in the framework of the ICC; it calibrates expectations for the speed and universal impact it serves the purpose of achieving.

### **Case Studies: Ecocide in Practice**

#### **The Amazon Rainforest: Political Change and Persistent Crisis**

The Amazon rainforest is perhaps the largest witness in ecocide by its diversity and biodiversity: a great deal of the global landscape is affected there (approximately 6 million km<sup>2</sup> across 9 countries), including an estimated 10% of all species on Earth. Amazon rainforest deforestation in 2022 was approximately 11,568 km<sup>2</sup> annually during agricultural expansion, illegal logging, gold mining, and infrastructure development.

A political transformation has occurred in the form of President Luiz Inácio Lula da Silva as in a presidential election held in January 2023. Brazilian Amazon deforestation declined by approximately 50% in 2023 (approx. 5,703 km<sup>2</sup>) under Lula. To achieve zero deforestation by 2030, the Ecological Transformation Plan was set out by the government and a more comprehensive industrial green transition strategy developed by 2030. Brazil's environmental priorities have been reflected in the way the administration and the UNFCCC have conducted

the CBD COP16 in Cali (2024) and UNFCCC COP30 in Belém (2025) to date.

These developments have huge implications for ecocide analysis. They point out first, that local political will can be applied to rapidly reduce deforestation rates of the Amazon (i.e., criminal deterrence may not be the only means of restraining Amazon burning). And they show the other side of the coin—that the Brazilian president's policies in his own case were in fact made with executive and regulatory means but not a legal process so far such that anybody will become charged with ecocide-level deforestation in Brazil because the law does not allow for international courts to do so?

### **The Deepwater Horizon Spill: Corporate Impunity and the Criminal Law Gap**

The Deepwater Horizon drilling platform explosion in April 2010 occurred on the Gulf of Mexico deep; nearly 4.9 million barrels of crude oil leaked over 87 days into the ocean. The effects of the spill were profound and permanent: more than 1,300 miles of coastline were polluted, marine mammals and sea turtles were killed, and an estimated 600,000 to 800,000 seabirds died.

BP plc was paid USD 65 billion in fines, compensation, and clean-up costs due to the oil spill (at the time of writing this report; this would be the world's biggest corporate penalty). There was no case brought towards BP Board members or senior executive level with the disaster and the Gulf blow and at an earlier stage an investigation in the first explosion were entered in and criminal charges were made of the deaths and a false statement presented to the federal regulators, and no executives actually were convicted of responsibility for the ecological destruction which the company caused in the course of the clean-up.

The Deepwater Horizon matter reflects at heart the very sort of “accountability gap” ecocide criminalisation is trying to fill. The extent and complexity of environmental destruction— so severe and destructive, but with some environmental damage in mind at once, it can be described by any honest assessment of global impacts of these kinds— was the kind of civil liability that meant no one had to take such responsibility for individual ecocide consequences themselves. A law for local legal action against the executives involved who authorised, or ignored the consequences, of this kind of behavior would change those parameters.

## **Russia-Ukraine War: Environmental Destruction as a Contemporary Ecocide Case**

The ongoing conflict between Russia and Ukraine has created what environmental law scholars have termed the most extensively documented example of possible wartime ecocide since Vietnam.

On 6 June 2023, the Kakhovka Hydroelectric Dam on the Dnipro River was destroyed with the resulting reservoir of around 18 cubic kilometres of water in the lower Dnipro valley. The immediate consequences were the flooding of 80 villages, the displacement of over 40,000 people and the destruction of approximately 230,000 hectares of agricultural farmland and the poisoning of drinking water in Ukraine for hundreds of thousands of Ukrainians. The long-term ecological damage as a result would mean the Dnipro delta wetlands and even Europe's largest irreversible change in groundwater patterns, as well as millions of fish deaths and its environmental effects.

The Zaporizhzhia Nuclear Power Plant is some of the Europe's largest plants, there has been concern as to radiological contamination and pollution of these fields such as Dnipro River and the Black Sea. From the area of soil in eastern and southern Ukraine nuclear weapons are used and as well there has as a result many and wars occurred.

For example, Ukraine has been talking with the ICC, whereas the OTP's December 2025 Environmental Crimes Policy defines Ukraine as the land area within the scope of existing environmental penalties to date.

The presence of so-called Rome Statutes which specify "clearly excessive" environmental harm in military advantage so far could see the enforcement of such a provision not coming through as legal remedy and therefore the case for a separate environmental crime law needs the OTP to write an ethical law to allow some action for environmental-justice violations and for a provision, based on the same area may be raised.

## **Legal Challenges to Recognising Ecocide as an International Crime**

### **Definitional Precision and Threshold Setting**

Our definition of the IEP provides a beginning, but the operational difficulty involved in operationalising such words as severe or widespread and long-term is immense in international

criminal activity. The International Military Tribunal at Nuremberg's definition of widespread in relation to crimes against humanity was developed in the context of decades of subsequent jurisprudence and ecocide would thus need more formalizing before its actual meaning is in principle certain under law enforcement requirements.

The comparison is made by the Rome Statute's war crimes provision — Article 8(2)(b)(iv) — we know of to an extent but the ICTY and ICRC did offer some basic guidance through which to interpret widespread, long-term and severe for wartime conditions and can't simply be transferred when the law of war is being applied in peacetime ecocide. A detailed scientific index of species mortality, territorial loss or recovery timescales is crucial for them to operate the term operationalitatively when the legal definitions cannot do this as per the norm.

### **Jurisdictional Issues and State Sovereignty**

The prosecution of ecocide has many layers of jurisdiction. ICC jurisdiction over crimes committed either on the territory of a State Party or by a national of a State Party; crimes committed by nationals of non-States Parties on the territory of non-States Parties fall outside its jurisdiction and cannot reach an international court without a referral from the Security Council; and as many of the world's largest emitters and major deforesters of greenhouse gases—such as China, Russia, India and the United States - are either non-States Parties or unlikely to ratify the ICC ecocide amendment because it could simply be taken so seriously that it would not be taken into account when it matters most.

As I have pointed out earlier, a conflict between the international criminal jurisdiction and national sovereignty over natural resources is particularly great for e.g., international criminal jurisdiction and state sovereignty (UN Charter 2 (7) (with the U.K.-G20 to be an exception as per most of the world's countries which are in agreement with the U.G.-1863) and natural resources (with international law since 1962) does not even rest on the basis of criminal intervention on the part of the states but only the political and legal basis of sovereignty of the country with regard to natural resources. It was in this reason that ecocide - unlike regulation of pollution - causes the kind of sovereignty which motivated the internationalisation of genocide and crime against humanity.

### **Causation, Evidence, and the Problem of Diffuse Harm**

Proving criminal liability for ecocide confronts the same evidentiary challenges as it confronts climate litigation, in addition to the need for criminal proving of the impact beyond reasonable

doubt. For the climate litigation context, establishing causation between particular actions or behaviour and complex multiple environmental outcomes is tricky, and requires an elaborate scientific research and testimony. Environmental damage is more likely to take place over a long time period between the relevant behavior to the impact of the environmental impact on the victims and then after the incident. There has been such an explosion in the science-based approach to attribution (i.e., the attribution of the impacts of one actor to another) for climate crime or environmental damage, so to do the world's justice today is just getting started at the research stage of climate justice.

Attribution works have for several decades in very detailed methods and were already finding that certain green emitters that produce gas to cause climate warming on every major planet are linked to global warming with a reasonable degree of accuracy. In addition, the evidence of these findings can be used to develop the evidence of climate and environmental impact. Such probabilistic scientific evidence can be found capable of holding beyond a reasonable doubt. Obviously, the future toward climate attribution science tells us something but no evidence that the evidentiary hurdles are any strong.

### **Political Resistance and Economic Interests**

The political economy of ecocide criminalisation is difficult still, despite the legislative progress of 2022-2026. Some of the states' responsible for global greenhouse gas emissions and deforestation hold several of the biggest economies in the world; none of them have supported the Rome Statute amendment proposed in September 2024. Climate change is an existential legal threat against industry, as already illustrated by the fossil fuel sector resistance on a long timescale to new treaty that have been the basis of the law and to its very effective lobbying on the amendment itself.

And of course, developing countries are more complicated. While many are simultaneously victims of environmental destruction — as small island states facing sea-level rise, as tropical nations experiencing deforestation and desertification — they can also become targets for prosecution if the law covers activities which are crucial for developing them in the future. To address the underlying tensions we need a carefully written set of ecocide laws that distinguish between the environmental behaviour of wealth and power and the developmentdriven actions of the economically marginalized class.

## **Potential Impacts of Criminalising Ecocide**

### **Deterrence and Corporate Behavioural Change**

The primary justification for criminal law, apart from punishment and incapacitation, is deterrence: behavior modification is governed by the threat of legal consequences. Indeed, ecocide criminalisation would produce significant behavioral change: not primarily through the probability of prosecution as much as the collateral consequences. Public prosecution, even unsuccessful, will lead to reputational costs, investor relations damage and regulatory scrutiny that a rational corporate enterprise should look away from. The risk of direct personal liability for senior executives would change the internal risk calculus of corporate decision-making by an important level in a way that civil fines, which can be added to business models by default, could never.

The introduction of corporate manslaughter legislation in England and Wales in which relatively few prosecutions have occurred had real-world changes in corporate health and safety governance prior to and after the law in place. We have also seen similar impact when corporate culpability for bribery under the UK Bribery Act 2010 was introduced.

### **Environmental Protection, Conservation, and the Biodiversity Framework**

The Kunming-Montreal Global Biodiversity Framework is adopted at the fifth Conference of the Parties to the Convention on Biological Diversity convened in December 2022 and promises that 30% of land, freshwater and ocean areas would be secure by 2030—a meaningful goal. It also sets targets to mitigate the harmful impacts of pollution, to reduce species-threatening subsidies around food security and to raise USD 200 billion a year in biodiversity finance. The ambitious objectives are driven by national action plans in the process (most of which so far are voluntary).

Ecocide criminalisation would work as part of the Kunming-Montreal Framework too. In practice it would alter the political dynamics of the Framework by making it more accountable on personal level for government officials and corporate CEOs whose decisions make non-binding promises for biodiversity untethered.

### **Global Governance and Precedent**

In addition to being a direct matter of environmental protection, a decision to recognize ecocide as an international crime would mark a fundamental change in international legal order to the

natural world. The four crimes under the Rome Statute, genocide, crimes against humanity, war crimes, and aggression are all, in their different ways, crimes against human beings. Ecocide would probably become the first crime under the name of the ICC whose primary victim is an ecosystem rather than a human population. Now the world would see it — in symbolic as well as economic sense — that the world community has accepted also the nature as its own entity and as a subject for protection (it comes first for the other players in the society).

A world law and global civilization are to be treated and as they have always been as such in this regard. It would legitimise and accelerate the integration of environmental consideration into foreign policy, corporate governance, investment decisions, and public procurement. It would equip civil society with a new legal base for advocating and holding governments to account. And eventually, in conjunction with the Legal Principles of international law, which were created in response to a more anthropocentric frame to a legal and ethical structure is also meant to address ecological interests and that is what Rights of Nature movement and ecocide criminalisation do.

### **Feasibility Assessment: Where the Law Stands in 2026**

The feasibility of ecocide as an international crime must be assessed differently in 2026 than it would have been in 2020. The formal submission of a Rome Statute amendment proposal by Vanuatu, Fiji, and Samoa in September 2024 transformed ecocide from an advocacy objective into a live issue before the ICC's institutional machinery. The questions that now determine feasibility are not whether the process has begun — it has — but whether it can achieve the political consensus required for adoption and, if so, in what timeframe.

### **The Amendment Process: Realistic Timeline**

Under Article 121 of the Rome Statute, as outlined above, legislative amendment takes many forms and includes: first of all, communication to all states Parties, six months of deliberation processes with respect to the issue, acceptance by at least two-thirds of States Parties. There is no statutory time limit to the voting. The first version of the crime of aggression reforms, which became law at the Kampala Review Conference in 2010, took three years from proposal stage through to adoption and in turn took eight years to be in force and even now a small amount will be covered by the majority of all States Parties.

Unfortunately, we have to live with a Rome Statute amendment with political momentum would probably not be approved until the year 2028-2030 and will not become law for a number of years to come. The crime of aggression past shows us that even the most successful amendment process does not always produce a crime of even broad commercial ambition if the majority of such states do not vote for it.

There's certainly political momentum behind ecocide in principle rather different to in connection with the aggression amendments made by the 1990s. Global environmental concern has suddenly taken on new relevance that was missing in 2010; a generation of local citizens calling and supporting ecocide criminalising has built its support, when international criminal law reform fails; and when a proportion of the public in the G20 supports ecocide criminalisation, that can act as powerful electoral pressure to hasten support from state legislatures.

### **The Multi-Track Strategy: National, Regional, and International**

This investigation in terms of ecocide feasibility acknowledges that the Rome Statute amendment forms one set of many steps needed. Such national ecocide laws covering 15 countries, with at least 10 more countries now firmly aware this issue, constitute a common model and a legal approach in which to support the international recognition of such crimes. The EU Environmental Crime Directive will define ecocide-like crimes as a law in all 27 Member States of the EU (two years) by 2025. The Council of Europe Convention sets out the first legally binding internationally treaty framework. Through the ICC OTP's Environmental Crimes Policy in December 2025, it becomes possible to use existing measures and instruments in Rome Statute for sustainable crimes.

Taken together, they form a multi-track strategy, whose impact far exceeds anything that any single track might achieve. National legislation generates domestic prosecutions that build doctrine and evidence practice. Regional instruments set up standards and enforcement mechanisms.

### **Conclusion**

From 2021 to 2026 the ecocide project has crossed a space that its proponents once considered daunting to cross for decades. This idea, a concept that was largely confined to the academic field of environmental law and the advocacy margins of the international legal landscape, is

here in its next five years on the rise of a formal ICC amendment initiative by three states and national criminal legislation in fifteen countries through world's first binding international treaty relating to environmental crime and the most definitive judicial restatement of environmental responsibilities in its case in the history of international law. These are not far-achieved but significant developments that signal a real global shake up of the environmental state institutions surrounding global ecology in the sense that they represent a change from the one that we live in.

Nonetheless, in an international context where even the Rome Statute does not take on an ecocide provision from the international climate crimes culture, the necessary ratification problem has held the crime of aggression back for over a decade in reality for many countries. Inequality concerns for the mens rea (that is, if the IEP's "substantial likelihood" standard is compatible with Article 30 of the Rome Statute) are always tricky to resolve, negotiation or judiciary. The ICC's sole jurisdiction leaves corporations — the most influential contributors to global environmental destruction— outside the reaches of any kind of international criminal justice and the political resistance of major industrial and fossil fuelreliant nations to any legally enforced approach would make them more environmentally responsible and difficult to tolerate.

And the cases against ecocide have not weakened anymore: they are defining the future of ecocide crime where ecocide law can come for free. With all these issues of definition and mens rea can become more and more difficult on this, to develop the institutional structure for ICC and national judiciaries for managing complex environmental cases, to build corporate accountability structures such that can work in conjunction with ICC's unique jurisdiction or even face the process and deal with political economy of the legal landscape of amendment and ratification efficiently, this must be done in an analytical, rational manner.

Ecocide's recognition as an international crime is no longer a question of whether, in 20242025 legislative and judicial history the direction is set. The place to see is here: when, in what way and how to act in practical matter at what time. They are more critical not only for policy purposes but also to people's lives than ever the core advocacy debates of the last decade and in particular they are worth the international legal community's attention.

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