
FROM ENVIRONMENTAL HARM TO INTERNATIONAL CRIME: PROSECUTING ECOCIDE AND CONFLICT-RELATED ENVIRONMENTAL DESTRUCTION UNDER THE ROME STATUTE

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ABSTRACT

War leads to many different types of environmental damage that affect soldiers and civilians alike and create problems far beyond warfare itself such as threats to health, food scarcity, water security, cultural existence, and reconstruction efforts. However, international law does not recognize ecocide as an independent crime according to the Rome Statute. The Rome Statute addresses environmental destruction by criminalizing conducting military attacks while being aware that it will lead to considerable environmental damage in Article 8(2)(b)(iv) of the Rome Statute. However, the requirement for establishing an intent, precision of conditions and limitation of the scope of application renders implementation of the provision impossible in practice. Within the framework of this paper, we answer the question of whether it is possible to achieve justice for environmental destruction during wars through existing crimes such as genocide, crimes against humanity, and war crimes. To achieve the goal, we use both normative and comparative methods for analyzing and evaluating the following documents in our study: the Rome Statute, Elements of Crimes, public international law, Draft Principles, environmental guidelines from the ICRC, and the recent formulation of ecocides as an independent crime. In addition, we analyze environmental destruction as an act of persecution, forcible transfer, extermination, starvation, pillaging, and property destruction.

The author of this paper concludes that an alternative interpretation of existing crimes based on ecological principles may improve the situation with responsibility and accountability now. However, this method of prosecution fails to provide an effective solution since it depends entirely on war situations. It, therefore, does not account for extensive environmental destruction outside the existing criminal framework. Hence, the authors propose a new dual approach for prosecuting ecocide. The first solution is to prosecute environmental components included into existing crimes in accordance with the Rome Statute, while the second one is to introduce a new crime of ecocide. Such a crime should have a precisely defined level of gravity regarding the outcomes of ecocide, and it should also contain liability provisions in accordance with Article 30.

INTRODUCTION**1.1 Background and Significance**

Armed conflicts cause destruction in a wider perspective than just to the military forces and civilian people and their infrastructure. War activities cause damage to nature and create problems, including pollution of water bodies, contamination of soil, deforestation, and agricultural destruction, and lead to the emission of hazardous chemicals, the disappearance of biodiversity, and making places unfit for living. The aforementioned issues continue to exist after armed conflicts and prevent people from gaining food, health, resettlement, and reconstruction. Environmental destruction is not a mere “green” problem but is used as a method of warfare, force displacement of civilians and starvation of the civil population in the affected areas. Environmental destruction is not limited by borders, causing problems to future generations, who were not involved in the war process. The ILC Draft Principles on the Protection of the Environment in Relation to Armed Conflicts support the argument for the necessity of viewing environmental destruction as a problem that goes far beyond its immediate consequences. The principles apply to the time periods before, during, and after armed conflict, and demonstrate the connections between environmental protection and economic viability, food safety, cultural practices, human rights, biodiversity, and the needs of future generations.

1.2 The Accountability Problem

The key challenge in establishing accountability lies in the fact that Rome Statute has yet to accept ecocide as an independent crime under international law. Article 5 restricts the subject-matter jurisdiction of International Criminal Court to crimes like genocide, crimes against humanity, war crimes, and aggression. Therefore, any environmental harm must be prosecuted under one of crimes specified in the Statute. The most straightforward environmental provision of the Statute is Article 8(2)(b)(iv) which prohibits intentionally launching an attack while possessing knowledge that such an attack will cause widespread, lasting, and severe damage to the natural

environment, provided that the extent of such damage is grossly excessive in relation to the expected concrete and direct overall military gain.

This provision provides a narrow outlook. Its three environmental thresholds have to be considered cumulatively; the mens rea demands showing knowledge of expected damages and disproportionality; the proportionality requirement involves comparing the size of ecological harm done with the military benefit; and its location confines its application strictly to international armed conflict. These limitations give an explanation of why this provision has never produced any body of international criminal law, and why scholars are asking whether the existing law can be extended beyond symbolic environmental protection (Cusato, 2017; Robinson, 2022).

1.3 Contemporary Relevance

The circumstance in question has achieved levels of urgency. In December 2025, the ICC Office of the Prosecutor released its concluding Policy on the Meaning of Environmental Damage as per the Statute of Rome. Although the Policy does not consider ecocide as a formally admitted offense, it sheds light on the meaning of ecological damage which could make the offense of genocide, crimes against humanity, war crimes, and aggression possible (Office of Prosecutor [OTP], 2025). Simultaneously, the project of the State of Vanuatu with the support of the governments of Fiji and Samoa aims to include ecocide as a separate offense in Article five. The initiative remained under work in the processes of Amendment of Assembly of States Parties in 2025 (The Assembly of States Parties [ASP], 2025).

Academic work usually provides two alternative ways to tackle the issue. The first one foresees using the existing offenses to the maximum, making the way for guilty parties to be prosecuted based on existing laws, while the second one is adopting ecocide as the fifth international criminal offense. The first suggestion may lead to environmental management being constrained due to the nature of the existing conflict-oriented framework, while the second suggestion may show that existing offenses are not enough available (Branch & Minkova, 2023; Pereira, 2020). Thereby, this paper rejects the binary opposition. The author presents a clear two-track structure model which envisages immediate prosecution of environmental crimes with the use of international regulations, while ecocide as a separate offense is included into the model to fill in the gaps made by the interpretation of existing legislations.

2. CONCEPTUAL AND LEGAL FOUNDATIONS

2.1 Defining Environmental Harm

The term “environmental damage” presented in the research is the most inclusive term of all. It refers to any negative modification of air; water; soil; ecosystems; biodiversity; natural resources; and ecological processes, which may be immediate or delayed, cumulative, transboundary, or irreversible. The term “conflict-related environmental damage” is, however, narrower as it refers to damage that arises from hostilities or occupation. It may arise from military attacks, use of certain weapons, destruction of industrial facilities, burning of land, exploitation of natural resources, looting, occupation policies, collapse of institutions, or dangerous remains of wars. Thus, other than damage that comes from deliberate attacks on nature, during wartime, some decisions lead to damage to the environment and destruction of vital ecosystems (Droege & Tougas, 2013).

“Ecocide” is a term used to describe a proposed act that constitutes an independent crime under international law although currently, it is not part of the Rome Statute. The term was defined by the Independent Expert Panel in 2021 as an act committed unlawfully or wantonly with awareness that there is a serious possibility of causing significant environmental damage either extensively or over a long period of time. However, its threshold is in between that of ENMOD because only one damage is not enough and the additional protocol I and article 8(2)(b) for ENMOD require that environmental damage also be extensive, long lasting, and severe cumulatively (Independent Expert Panel, 2021; Minkova, 2023).

2.2 Treaty Protection under International Humanitarian Law

Under the provisions of Article 35(3) of Additional Protocol I, the application of methods and means of warfare with a view to causing natural disasters is made illegal. The requirements of Article 55(1) build on that by banning methods and means of warfare where the resulting damage is likely to adversely affect people’s health or survival. In this way, the provisions of Additional Protocol I echo the concept of the protection of nature and concern for human dependence on natural resources.

Meanwhile, the function of ENMOD differs considerably. ENMOD prohibits any conduct involving use of methods of environmental alteration that may lead to negative consequences for the environment being used in the course of combat. The test used in this case can be regarded as disjunctive; however, the sphere of

application of ENMOD is also limited to cases where intentional alteration of natural processes takes place. The definitions contained in ENMOD work along with the different definitions of the terms “widespread,” “long-lasting,” and “severe” as used in ENMOD. Therefore, the words used in ENMOD cannot simply be transposed into the concept of the conventions (Droege & Tougas, 2013).

2.3 General Principles Governing Attacks

The absence of a specific environmental threshold does not imply that the field of the environment stands outside the realm of humanitarian law protection. The principles of distinction, proportionality, and precautions continue to apply, as the environment must be presumed to be civilian unless some part of it is made a military target. Being in the combat zone is not a legal justification for targeting environmental aspects since unnecessary environmental damage must not be made too disproportionate in view of the expected military advantage, and military actors must take all necessary steps to prevent or minimize such damage. Principle 14 of the International Law Commission states that this principle applies. The commentary to this principle further establishes the link between the protection of the environment from military actions with the necessity for military action and prohibition of impact on civilian objects, destruction of civilian objects, food supply and other essentials for keeping a civilian community alive (International Law Commission, 2022).

2.4 From Humanitarian Prohibition to Criminal Responsibility

The violation of International Humanitarian Law (IHL) does not mean that it amounts to a war crime. It is important to establish whether the violation matches a specific previously laid offence about international law and the presence of armed conflict, as well as ensure that a person accountable for it is identified (Cusato, 2017).

2.5 Anthropocentric and Ecocentric Protection

The Rome Statute is mainly ecocentric in nature. Environmental injury is seen to be a crime only when it affects people. Ecocentrism recognizes ecosystems, species, and processes as valuable unto themselves. A properly drafted ecocide amendment may allow for the introduction of that direct ecological interest without displacing human-focused protection. Relational model is the greatest, as it protects nature for its own sake. It also accepts that ecological integrity maintains communities, cultures, future generations, and planetary systems (Branch & Minkova, 2023; Robinson, 2022).

3. PROSECUTING ENVIRONMENTAL DESTRUCTION THROUGH EXISTING ROME STATUTE CRIMES

3.1 Article 8(2)(b)(iv): The Express Environmental War Crime

Article 8(2)(b)(iv) is the sole instance of a war crime in the Rome Statute referring to damage to the environment where the relevant criterion for proving it includes not only proving a harmful event to the environment but also proving all the relevant criteria as established in law.

A. Existence of an attack. To be guilty of an offense, there is an "attack" that must take place. The Elements of Crimes relate liability with the violent action against somebody else carried out during hostilities. Environmental degradation caused by extractive activities, occupation rule, poor industrial management and regulation, negligence, and post-conflict abandonment may be significant, but it will be excluded in this case since it is not a result of an attack being conducted, though it could potentially fall into another term of criminal offenses.

B. Incidental environmental damage. The provision views environmental harm therefore which could be foreseen, and it is not necessary to consider the environment as a target. Therefore, it works as a special proportionality offence which enables one to balance civil damages, civilian object damage, and nature damage. A direct attack on a forest, water systems or ecosystem can be classified as the attack on civilian targets.

C. Cumulative gravity threshold. It is necessary that the expected damage to the environment be widespread, permanent, and serious. Due to the cumulative nature of the connection, evidence of exceptional seriousness is inadequate. For instance, a toxic spill that permanently damages a localized marsh, or contamination that harms one community for decades without being widespread geographically, does not satisfy this condition. Thus, the threshold of proof is significantly narrower than the definitions of ecocide that have been suggested and can preclude the use of ecologically disastrous acts that do not meet one of the three criteria of the test (Cusato, 2017, Robinson, 2022).

D. Clear excessiveness. Expected damage has to be "clearly excessive" in relation to the tangible military advantage expected from the attack. This indicates the importance of the ex ante evaluation undertaken based on the information at the time of the decision to attack, rather than a mere hindsight assessment. It is not

technically easy to make a comparison, provided that the environmental harm has diverse aspects, such as loss of biodiversity and ecosystems, toxic persistence, queuing in the neighbouring atmosphere through generations. Further, the concept of “clearly” excludes the imposition of liability for not only unlawful acts, but also international crimes, which makes the distinction clearer.

E. Knowledge and intent. It is necessary for the perpetrator to launch the strike on purpose and realize that it will lead to the specified damage with clear excessiveness of such damage. The Elements of Crimes state that this requirement of knowledge obliges a perpetrator to make a corresponding value judgment, which is assessed by the Court based on the information available at that time. Proving becomes problematic when scientific models generate uncertainty regarding ecological effects that arise gradually or when technical information is not centralized at one adviser or commander or when one purposely avoids gaining inconvenient knowledge. Subsequent proof of long-term damage can establish causation, but it does not assure that the perpetrator had the corresponding mens rea at that time (Maruf, 2024).

F. International armed conflict limitation. Clause 8(2)(b)(iv) is found in the article dealing with international armed conflicts. There does not exist any specific clause governing an equivalent crime in case of non-international armed conflict; however, customary war crimes might be applied. The provision contains important symbolic meaning but is institutionally incomplete since it mentions ecological damage while ignoring other forms of ecological destruction.

3.2 Other War Crimes as Alternative Pathways

The notion of environmental damage cannot be narrowed to the parameters of Article 8(2)(b)(iv). Among all others forests, agricultural fields, water systems and protected territories and environmental facilities must be regarded as civilian objects, unless their nature, location, purpose and use makes a significant impact on military operations and destruction of these facilities brings clear military advantage. Deliberate attacks on these objects may trigger Articles 8(2)(b)(ii) or 8(2)(e)(i) depending on the classification of the conflict.

The term large-scale destruction or appropriation of property that cannot be justified by military necessity covers not only land destruction, destruction of industrial objects, water purification facilities and natural resources infrastructures but also means that a concept of pillaging as per Articles 8(2)(b)(xvi) and 8(2)(e)(v) addresses illegal appropriating of oil, minerals, timber etc. provided that necessary elements of intent to pillage for personal gain were present. The Ntaganda decision by the ICC shows that pillaging and attacks against protected objects and forced transferring are offences recognized by the law, however, extermination of the environment was not treated as a separate offence. Damage done to crops, animals, farmland and drinking-water facilities can also be used for proving starvation charges. Attacks against dams, nuclear plants and similar facilities may cause the impact both on civilians and the surrounding environment as well. Therefore, the International Law Commission acknowledges the existence of rules preventing pillaging and unlawful destruction of property as an indirect way of protecting the environment.

3.3 Environmental Destruction as a Crime Against Humanity

Crimes against humanity provide a crucial pathway as they do not necessitate the use of armed force. However, environmental damage must constitute an aspect of a large-scale attack against civilians, and the perpetrator must be aware of this attack. Environmental devastation can assist in extermination in particular situations, where contamination of water, food production destruction, or endangering the population's safety causes living conditions intended for annihilating a part of the population.

Sabotaging houses, soil, forests, water sources, and means of subsistence may create the atmosphere for an adherent process of deportation. The ICTY Appeals Chamber stated in Stakić that forcible transfer implies compulsory relocation only on the territory of the state and may also be classified as other suffering actions. Deliberate elimination of resources vital for an ethnic or religious minority may be viewed as persecution if such destruction leads to severe deprivation of rights and is accomplished on prohibitive grounds. Severe pollution resulting in serious suffering may be within Article 7(1)(k), but the actions must be illegal if they are not of a comparable nature and severity with mentioned crimes (Pereira, 2020).

3.4 Environmental Destruction and Genocide

Article 6(c) addresses the purposeful imposition of life conditions intended to cause the extinction of any nation, race, ethnicity, or religion of a specific group. Possible acts include destruction of the group's resources of sustenance, contamination of sources of water, elimination of agricultural lands, or creation of circumstances where living becomes impossible. The main obstacle to fulfilling the condition of Article 6(c) is the presence of *dolus specialis*, meaning that the environmental act has to simultaneously involve the intent to eliminate the group. In the case Croatia v. Serbia, the International Court of Justice confirmed that genocide involves the

intention of physical or biological extermination of a group; also, in cases of genocide, it should be the only reasonable conclusion that could be drawn from the actions of the accused. Therefore, environmental evidence may prove that destructive conditions exist and, in a rare case, allow for the drawing of the inference of intent but not always lead to the conclusion that the relevant environmental damage is genocide.

3.5 Individual Responsibility

The concept of liability is ultimately taken to apply to natural persons. The relevance of Article 25 may include political leaders, military leaders, man planners, persons who order attacks, contributors of plunder, and persons who facilitate crimes under the Rome Statute knowingly. Further, Article 28 may apply to military leaders or the leaders and superiors who know, have the reason to know, or turn a blind eye to subordinates committing crimes and not stopping it. Article 25 draws a line between committing, ordering, lending a hand to, assisting in, or enabling a group crime. Thus, prosecutors should find out what precisely the accused have done, and not just presume the presence of guilt because of the position of the person. In addition, Article 28 is meant to emphasize that in the case of commanders, the crimes must be committed by forces under their full supervision. In the case of environmental crimes, effective linking of scientific data, authority, behavior of subordinates, and harm should take place. The ICC has no authority over corporations as legal entities. Corporate actions must thus be translated into conviction of a specific executive, manager, or consultant who was involved in committing an environmental crime.

4. STRUCTURAL AND EVIDENTIARY LIMITATIONS OF THE EXISTING FRAMEWORK

4.1 Excessively Demanding Thresholds

Article 8(2)(b)(iv) requires that anticipated environmental damage should be “widespread, long-lasting, and serious.” These requirements are cumulative in nature and thus, catastrophic damage may escape the provision due to failure to prove one of its dimensions. For instance, the toxic spill may cause the ecosystem’s destruction in a geographically confined area, the contamination may be extensive and cause significant damage, but not have long-lasting nature, whereas gradual loss of biodiversity may take place over a long period of time, yet not cause any immediate serious impact. Thus, the requirement narrows any possibility to criminalise an incident and creates a serious accountability gap (Cusato, 2017; Hulme, 2022). In contrast to that, in the ecocide proposal from 2021 the significant damage should be either serious or long-lasting or widespread. The formulation manages to maintain the rigorous threshold of severity while having in mind the fact that ecological catastrophe can occur in different places and for different periods of time (Minkova, 2023).

4.2 Scientific Uncertainty and Causation

In environmental law enforcement, the prosecution must establish the baseline conditions, damages caused, links between actions and effects, foreseeability, duration and reversibility of said effects, the presence of any alternative causes of damages, and any relevant information that may influence the decision of the court. Establishing the aforementioned links is usually not a straightforward process as damage may be caused by cumulative and repeated biological processes, environmental harm and destructed infrastructure, displacement of people, collapse of law enforcement systems, and many other actors. Moreover, the involvement of various actors in the environment cases complicates the process of proving causation further due to other factor’s influencing the environment (Robinson, 2022)..

Effective inquiry in this sphere is possible only through interdisciplinary work and cooperation of specialists from different scientific fields. Thus, ecologists can establish ecological backgrounds and pathways of the damage; hydrologists perform water pollution analysis; toxicologists and epidemiologists establish human health link to a particular pollution; satellite specialists monitor the changes in the area; and climate experts analyze the environmental problems caused by the human impact on climate. Application of the knowledge in the context of environmental case investigation is of utmost importance since otherwise, it will be impossible to establish the links that play a huge role in the process of proving causation in the field of environmental crimes as pointed out by Gillett (2025).

4.3 Temporal Problems

Environmental damage can show itself long after relevant actions occur. Groundwater pollution, soil erosion, reproduction toxicity, unexploded munitions, and reduction in biodiversity might take time to manifest itself or remain scientifically unclear during armed conflict. Prosecutors need to differentiate between what the suspect knew at the time and what is established afterwards. Later discovered facts might show the occurrence and the scope of the disaster, but they cannot bring about the knowledge that was supposed to be there at the time of the decision according to Article 30 or Article 8(2)(b)(iv). The important question to be asked is whether the later consequences were intended, known, or reasonably inferred now when the decision was taken.

4.4 Anthropocentric Dependence

The majority of pathways that come under the Rome Statute framework consider ecological harm to be an aspect of damage to civilians, property, protected groups, and civilian populations. This anthropocentric arrangement does not guarantee protection in cases where ecosystems suffer deterioration without immediate impact on human life, non-human species are endangered, ecological damage is caused beyond the jurisdiction of national states, the future generations will face the main consequences, or the damage is geographically extensive. While the crimes specified in the Rome Statute can include destruction of lives or indispensable resources for life, they do not specifically cover ecological well-being as an autonomous object of protection (Branch & Minkova, 2023; Gillett, 2025). Introduction of the ecocide offence will fill this gap without elimination of the already existing crimes.

4.5 Conflict Classification

Environmental war crime, being a distinct type of environmental offence, falls under provision of Article 8(2)(b). Other forms of environmental destruction may also take place through civil warfare, transnational activities with armed groups, as well as during military occupations and other forms of hostilities that change classification over the years. Although other war crimes exist, they do not mean that there are other forms of environmental crime to work with during the situation of non-international conflicts.

4.6 Jurisdictional and Institutional Constraints

Codification is without guarantee of prosecution. The effectiveness of ICC action is governed by issues of territorial or nationality jurisdiction, consent of the State, temporal jurisdiction, admissibility, complementarity, gravity, evidential availability, prosecutorial discretion, cooperation of State, and arrest and surrender of accused. Limitations as aforementioned are provided for in Articles 12, 17, 53, 86 and 89 of the Rome Statute, hence, ecocide may be not enforceable because of the absence of relevant suspects under ICC jurisdiction or obstacles in obtaining evidence and arrest of accused provided by the State. However, recognition can be of normative, preventive and catalytic significance. It can serve to elucidate the international crime, impact military and business policies, promote domestic criminalization, strengthen national inquiries into ecocide and make ecological damages visible in assessments of complementarity. It is therefore required to state that ecocide should not be thought of as a self-executing instrument, but rather as part of a wider institutional strategy.

5. ECOCIDE AS AN AUTONOMOUS INTERNATIONAL CRIME

5.1 The Normative Case for Ecocide

The acknowledgment of ecocide as an independent crime can be substantiated primarily by the independent asset of ecosystems. Crimes defined in terms of the Rome Statute require the destruction of the environment to be expressed in human injuries. Contrary to that, ecocide would recognize that the destruction of ecosystems, species, and survival processes can be considered an international crime even if it remains undisclosed or unreasonable for some time. In addition, ecocide would contribute to the expressive function of justice as it would qualify the extreme destruction of the environment as the conduct that attracts world's attention. Thus, the designation could lead to the political, military, and economic decision-makers to account for ecological risks in their planning. Even though it should be noted that its preventive potential of criminalization should not be overvalued, it might lead to the changes in professional advice, investments, insurance systems, and domestic laws.

5.2 Evaluation of the 2021 Expert Panel Definition

The Independent Expert Panel put forth a definition of ecocide as involving "an illegal or reckless act committed with knowledge that there is a good chance that said act will result in serious and either extensive or long-term damage to the environment." According to the definition, there are five components that constitute ecocide: an act or omission, illegality or recklessness, knowledge that damage is likely to occur, severity of the damage, and either its extensive or long-term impact. In this context, reckless conduct means all acts committed with total disregard for the damage incurred.

5.3 Strengths of the Proposed Definition

The project carries noteworthy benefits. It can be used in both peace and wartime, directly contributes to environmental protection, and substitutes the conjunctive threshold of Article 8(2)(b)(iv) with a more functional criterion - severity in combination with either widely or long-term damage. The concept does not require an intent to destroy nature; instead, it deals with conscious risk-taking. The notion of unlawful or wanton actions includes actions prohibited by existing law and actions that are permitted, but with reckless disregard for significant damage caused. moreover, the gravity threshold limits the international prosecution within unique

cases and not ordinary regulatory violations. The unique combination of these factors reinforces the normative and possibly deterring nature of the crime while allowing the ICC sticking to its core mandate (Atılğan Pazvantoğlu, 2025).

5.4 Legality and Culpability Concerns

The major point of contention is legality. The evaluation of words like “severe,” “widespread,” “long-term,” “wanton,” “substantial likelihood,” and “social and economic benefits” is needed. Article 22 requires strict interpretation in stipulating that analogy cannot be used to widen the scope. The answer is not abandoning ecocide but developing indicators that make it possible to measure ecocide in the Elements of Crime, which include extent, duration, reversibility, economic uniqueness, cumulative effects, cultural dependencies and danger to global environment.

A second issue is mens rea, which is stated to require intention and knowledge according to Article 30 unless otherwise configured by the statute. The dispositive test used by the Panel has lowered the threshold of consequences to the level of negligence or dolus eventualise. It means that the amendment must indicate clearly that this criterion operates in substitution of Article 30; otherwise, legal interpretation is likely to produce inconsistencies or come back to the unreasonably demanding criterion. Savard (2025) convincingly proves that the question of mens rea is central to the reconciliation of environmental risks and personal culpability of individuals.

The assessment of environmental damage in comparison with social and economic benefits represents another problem. The mere fact that there are very significant benefits should not justify ecological destruction. Only legally, really and clearly defined benefits should be considered if those are compatible with environmental laws, human rights and indigenous rights (Ciocchini and Khoury 2025) appear to warn about the fact that the creation of international crimes may lead to the individualisation of structural damage and mask the exploitative regimes behind ecological rape. The significant threshold of gravity established, as well as determination of the personal involvement, causation and culpability can significantly diminish the risk if overcriminalization but cannot substitute the corporate regulations and civil liabilities.

5.5 Peace, War, and Military Operations

Ecocide should be applicable in both peacetime and armed conflict situations. Military action should not be exempt from the definition of ecocide, however, the offense should not make criminals of all attacks that pose any measure of ecological damage. The phrase “unlawful or wanton” will permit the legality in wartime to be evaluated according to the laws of international humanitarian law. As a result, ecocide should be committed only if during the attack elements of ecocide are established separately.

5.6 Amendment Procedure and Complementarity

The addition of the ecocide concept necessitates an amendment under Article 121 of the Rome Statute. Vanuatu, with the help of Fiji and Samoa, has moved this proposal into the Assembly of States Parties process making clear that ecocide is not merely a theoretical concept anymore. The acceptance process requires obtaining the required Assembly majority and ratifying the amendment through the applicable amendment process. Article 121 envisages the possibility of fragmented jurisdiction since any amendment dealing with crimes under Article 5 would apply to the States accepting such amendment. Therefore, the national process is of utmost importance. Through incorporating ecocide in their legislation, States have the chance to criminalise the ecocide before the international consensus is reached, facilitate the development of the national legal practice, and strengthen the principle of complementarity.

5.7 A Qualified Defence of Ecocide

The argument for establishing ecocide as an offense is compelling but has numerous conditions. The law should only apply in instances of serious damage to the environment, should be drafted specifically, should conform to the principles of culpability, and should be applicable strictly to natural individuals in the context of the rules of the ICC. There should be specific definitions that clarify thresholds, causal relations between actions and effects, risks, and evidentiary requirements in relation to the offense. Furthermore, the offense needs to be established in accordance with international humanitarian law and make use of appropriate scientific methods, besides being compatible with domestic laws concerning ecology, corporate activities, human rights, etc.

6. A TWO-TRACK FRAMEWORK FOR ENVIRONMENTAL ACCOUNTABILITY

This article proposes a complementary two-track model that combines immediate enforcement under existing Rome Statute crimes with recognition of ecocide as an autonomous offence. Its purpose is to avoid the false choice between interpretation and reform.

Track One: Immediate Prosecution Under Existing Crimes

Completely disregarding environmental harm, it must be treated as an investigative priority by the ICC Office of the Prosecutor and local authorities and cannot be perceived as a by-product of violence. Environmental experts must be involved from the start so that they manage to gather sufficient evidence, including satellite images, geographical data, military documents, and expert opinions while the evidence has not been damaged or lost.

Investigations must try to find out whether the damage to the environment can indicate forced displacement, persecution, hunger, extermination, illegal attacking civilians, robbing, or destroying property without a right to do so. If the commander was made aware of the crimes against nature before the fact and did nothing against them, such cases must be treated as ones where command responsibility takes place.

Furthermore, corporate responsibility must be distinguished from the responsibility of particular individuals, such as its top managers and advisors, who help do wrong. Victim involvement and payments must include ecological, livelihood, cultural, and intergenerational damage. The community should also participate in the investigation, as well as indigenous people, environmental organizations, and research labs (Bagheri & Kemp, 2025).

Track Two: Adoption of an Autonomous Ecocide Offence

Amendments to the Rome Statute should state that environment-related crime requires serious damage taken place on a large scale or for a long time and it must be known that such damage is likely to happen. Detailed Elements of Crimes should specify the scale, the duration, the possibility of reversibility, the ecological uniqueness of the act, causal relationship and the required mindset. The crime is to happen during peacetime and in armed conflict, but the legality of the act should be assessed during the time of war based on the principles of distinction, proportionality, precaution and military necessity. In addition, existing means of responsibility should apply to commission of the crime. Moreover, it is obvious that neither commercial nor state approval should be considered a valid excuse. In addition, complementarity should motivate the member states to provide for relevant crime in their national laws.

Relationship Between the Tracks

The two tracks are cumulative, not competitive. The same conduct may constitute ecocide, a war crime, a crime against humanity, or genocide according to its context, victims, scale, and purpose. Alternative or cumulative charges should remain available where each offence protects a distinct legal interest. Existing crimes protect persons, groups, property, and civilian populations; ecocide would additionally protect ecological integrity itself. This architecture combines accountability with long-term normative reform, while avoiding the risk that awaiting amendment becomes a reason for present inaction through coherent, principled, evidence-based enforcement in practice.

7. CONCLUSION

The implications of the Rome Statute regarding environmental degradation must not be overlooked since it sets up a legal framework that allows for the prosecution of actions causing destruction to the environment. Article 8(2)(b)(iv) provides certain means of linking environmental disasters to human suffering such as unlawful attacks on civilians, forced displacement, and persecution of individuals or groups. Nevertheless, these avenues have limited effectiveness due to being largely dependent on the human dimension of the environmental destruction caused.

The main problem does not seem to be the absence of law per se but rather the absence of a coherent legal definition of the crime of causing environmental destruction, as the existing provisions suffer from having too many factors to consider, not mentioning incompatibility due to the discrimination against other types of crimes.

A two-pronged approach might be the most effective here. In the immediate future, lawyers need to derive the most from the provisions of the Rome Statute by relating them to environmental crimes. In the long term, however, States Parties need to introduce a new crime of ecocide that would address environmental concerns more directly.

By introducing ecocide legislation, the legitimate problems with the implementation of international law concerning damages inflicted on the environment would not be resolved, though it would provide a clearer picture of the concept of accountability as far as the environment is concerned and, what is more, ensure that the world community contributes to the effort in eradicating ecocide practices.

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