

THE LEGAL STATUS OF ECOCIDE AS AN INTERNATIONAL CRIME

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ABSTRACT

Severe and widespread destruction of the environment, or Ecocide, has become a hot-button global problem. Although there has been increasing awareness of environmental degradation, Ecocide is yet to become internationally recognized as a distinct crime. This research paper explores the legal status of Ecocide, considering its historical emergence, international legal status, and its advocacy to incorporate into the Rome Statute of the International Criminal Court. The research study addresses the problem of defining and enforcing Ecocide as an international crime using a comparative analysis of the domestic and international legal machinery. In addition, it explores how states, companies, and international organizations are dealing with environmental harm and the advantages of making Ecocide a crime. Ultimately, the study provides policy recommendations for strengthening global legal responses to Ecocide.

Keywords: Ecocide, International Criminal Law, Environmental Justice, Rome Statute, Legal Framework.

INTRODUCTION

There has been alarming destruction of the environment, undermining biodiversity, ecosystem, and human well-being. Environmental harm on a global level is caused by deforestation, pollution, dumping of industrial waste, and climate change. However, frameworks like the Paris Agreement and the Convention on Biological Diversity attempting to combat environmental damage are not binding. As a result, legal scholars and ecological activists advocate for the formal designation of ecocide as an international crime to criminally prosecute those who cause severe environmental destruction, namely individuals, corporations, and states (Higgins, Short, & South, 2013).

Ecocide became a concept in the 1970s after the environmental damage caused by the use of Agent Orange in the Vietnam War (Zierler, 2011). The first political leader to raise the issue of ecocide was the Swedish Prime Minister of Palme at the 1972

Stockholm Conference on the Human Environment, who stressed that there should be a legal responsibility to pay for environmental destruction. Nevertheless, ecocide remains unpunished under international law (Sands, 2021).

At present, the Rome Statute of the International Criminal Court (ICC) identifies four core crimes: genocide, crimes against humanity, war crimes, and the crime of aggression. Article 8 (2) (b) (iv) of the Rome Statute addresses the destruction of the environment during armed conflicts but not ecological peacetime damage (Schneider, 2020). Given that the global environmental crisis continues to increase and the increasing movement to mend the Rome Statute with ecocide as a distinct international crime, there is no reason for this trend to begin.

This research study aims to study the legal status of ecocide based on its historical development,

difficulties in getting legal recognition, and, eventually, perspective enforcement. The extent to which ecocide has been approached differently by various countries and legal systems and the feasibility of adding it to international criminal law will be studied. Recommendations are then provided to strengthen international law frameworks and to improve environmental accountability.

HISTORICAL EVOLUTION OF ECOCIDE

a. The Emergence of Ecocide as a Legal Concept

In the 1970s, American biologist Arthur Galston coined the term 'ecocide' based on environmental devastation, especially the use of chemical defoliants in warfare (Zierler, 2011). Legal scholars and environmental activists broadened the idea over time to include fairly large-scale environmental destruction due to human activities such as industrial pollution and deforestation (Gray, 1995, p. 267).

b. The Stockholm Conference and Early Legal Discussions

The 1972 Stockholm Conference on the Human Environment was a milestone in raising global awareness of environmental protection. Swedish Prime Minister Palme specifically mentioned that ecocide was an urgent matter that needed to be legislated. Nevertheless, international-level binding legal provisions were not adopted after initial discussions (2016, Lyster).

c. The Rome Statute and Environmental Crimes

The International Criminal Court (ICC) was established in 1998 with the Rome Statute to prosecute crimes that gravely affect the international community. Finally, the environment is recognized under Article 8(2)(b)(iv) but only as a war crime if committed in the context of armed conflict. One major limitation to dealing with peacetime environmental destruction has been this (Schneider, 2020).

d. Recent Developments and Legal Proposals

An attempt to criminalize ecocide at the international level has been renewed in recent years. In 2021, a legal definition of ecocide was proposed by the Independent Expert Panel for the Legal

Definition of Ecocide convened by the Stop Ecocide Foundation. The panel defines ecocide as 'unlawful or wanton acts committed with knowledge of such acts' which were 'committed with knowledge that they will cause or are likely to cause severe and either wide-spread or long-term damage to the environment' (Stop Ecocide Foundation, 2021). States, including France and Belgium, have indicated support for recognizing ecocide as a crime recognized within international law.

LEGAL CHALLENGES AND DEBATES SURROUNDING ECOCIDE

a. Definitional Ambiguity

Defining ecocide is one of the major legal problems in making the crime against the environment part of international law. The legal definition from 2021's proposal by the Stop Ecocide Foundation has some critics claiming that such terms as 'severe,' 'widespread,' and 'long-term' are subjective and open to interpretation (Sands, 2021).

b. State Sovereignty Concerns

Sovereignty is a concern that prevents many states from agreeing to incorporate ecocide as a crime under international law. Schneider (2020) argues that governments are scared that international oversight will limit what it does in terms of resource extraction and industrial development.

c. Challenges in Enforcement and Jurisdiction

It is also complex to enforce ecocide even if the Rome Statute recognizes it. Typically, in international criminal law, however, it is difficult to prosecute corporations or state actors who cause large-scale environmental damage (Higgins, Short, & South, 2013).

d. Political and Economic Opposition

Powerful industries like fossil fuels and mining have been lobbying to prevent ecocide from being criminalized, saying that it would hinder their economic growth. Gray (1995) stated this and indeed punished political resistance from major economic players to adopting laws of ecocide.

e. Balancing Environmental Protection with Development Goals

As argued by developing countries, criminalizing ecocide could hit them hardest. Some of these nations rely heavily on industries like logging, mining, and agriculture, which, if overregulated, could stunt their development and poverty alleviation (Lyster, 2016).

f. The Need for International Cooperation

The fragmented realization of ecocide laws at the national level stresses global coordination. Moreover, legal enforcement remains inconsistent without a binding international framework, thus allowing the perpetrators to get away with their acts (Stop Ecocide Foundation, 2021).

COMPARATIVE ANALYSIS OF NATIONAL AND REGIONAL APPROACHES

1. National Approaches to Ecocide

However, several countries have independently recognized ecocide in their legal frameworks in the face of escalating global awareness of the menace of environmental destruction. While these laws are strong, their enforcement can vary widely.

Historically, France has been in the vanguard of legal acceptance of ecocide. In 2021, the country added ecocide to its legal code, imposing penalties for serious environmental damage. The goal of this law is to prevent massive changes in the environment by punishing those who are responsible. However, critics argue that the law is not being enforced properly and does not adequately cover corporate accountability (Sands, 2021). Though penalties are substantial, they are not strong enough to deter large corporations from carrying out environmentally hazardous practices.

While Russia has provisions to combat environmental crimes, they are weak both because of systemic corruption and a lack of political will to enforce them. Russian environmental legislation provides sanctions for ecological harm, but they are applied unevenly. One reason for this is vested economic interests that prefer to expand industrial development over conservation (Gray, 1995). Therefore, despite existing legal measures, Russia still struggles with preventing and prosecuting ecocidal acts.

Because of its history with chemical warfare and deforestation during the Vietnam War, Vietnam has enacted strict environmental protection laws.

However, the country has realized that strong environmental legislation is needed further to prevent the degradation of natural resources. Nevertheless, the enforcement of such rules differs within regions, with the strictest compliance observed in some regions and again due to a lack of resources and economic pressure (Zierler, 2011). The problem is that the laws need to be applied and monitored consistently to avoid doing ecological damage.

2. Regional Approaches to Ecocide

Regional organizations and governing bodies have acted beyond individual nations to confront ecocide but have yet to meet extensive challenges to establish legally binding guarantees.

There are multiple environmental regulations that the European Union (EU) has put in place, including the European Green Deal, which seeks to cut down on carbon emissions as well as encourage sustainability. Nevertheless, there is no binding legal framework of the EU in punishing ecocide as an international crime. Although the EU has taken steps to pave the way for environmental protection, there is no solid legal mechanism for prosecuting ecocide. Thus, it has not been effective in prosecuting violators (Lyster, 2016). Inside the EU, efforts are still ongoing to promote stronger regulations and to achieve ecocide's legal status as a crime of the most serious.

For instance, because the African continent is so prone to environmental exploitation, growing advocacy is being made for the law of ecocide to be brought under the African Union (AU). There are so many African nations where foreign corporations come in to extract natural resources without any accountability, whereby there is ecological destruction. For example, the mines and the oil extraction sector have caused great environmental damage in the Democratic Republic of the Congo and Nigeria (Schneider, 2020). Legal recognition of ecocide under the AU framework is gathered because of an urgent need for the protection of natural ecosystems and indigenous communities from large-scale environmental harm.

In South America, the legal rights of nature are recognized as pioneers. Suits on behalf of ecosystems can now be brought in countries where the 'rights of

nature' have been written into their constitutions, as is the case in Ecuador. By this approach, environmental entities are given some legal standing to petition the courts for reasons for environmental degradation as a violation of constitutional rights (Higgins, Short, & South, 2013). Measures that set such a precedent for ecocide laws are included in national legal systems and provide a unique perspective on environmental justice problems.

RECOMMENDATIONS FOR STRENGTHENING INTERNATIONAL LEGAL FRAMEWORKS

a. Amending the Rome Statute

A necessary step towards curbing ecocide is using ecocide as a stand-alone crime under the Rome Statute of the International Criminal Court (ICC). Currently, the ICC prosecutes four core crimes: genocide, crimes against humanity, war crimes, and crimes of aggression. The addition of ecocide as a separate offense would ensure juridical principles for prosecuting individuals and entities responsible for the great collapse of the environment. In addition, this amendment would move ecocide to the status of international concern on the same level as other grave crimes in order to support the concreteness of environmental protection globally. Amending the Rome Statute requires consensus among the State Parties, thereby requiring considerable diplomatic efforts and efforts from environmental organizations, legal scholars, and policymakers.

b. Developing Clear Legal Definitions

There is a need for a precise and universally accepted definition of the term ecocide for the law to enforce it. Legal ambiguities regarding the terminology themselves can complicate prosecution and have ambiguous application. There exist various definitions of ecocide. However, a consistent and internationally accepted definition would facilitate and standardize how different jurisdictions legally interpret it. Under such a definition, ecocide should specifically define the scale, intent, and result of environmental destruction that qualifies as ecocide. (Development of clear definitions requires law experts, environmental scientists, and policymakers to collaborate in drafting a terminology that is both legally sound and scientifically informed). A well-

defined legal framework will bring clarity to courts, policymakers, and corporate companies, and unintended loopholes that perpetrators can exploit will be eliminated.

c. Enhancing International Cooperation

Enforcement of effective ecocide laws requires strong cooperation and enforcement from the state, environmental organizations, and legal institutions. Most environmental crimes have transnational consequences and affect more than one nation and its ecosystem. Improving international intelligence sharing, cross-border investigation, and extradition agreements will facilitate the better detection and prosecution of the court. Agreements should be multilateral to encourage the states to make and implement proper environmental laws and encourage cooperation in environmental monitoring and law enforcement. In addition, environmental protection clauses should be part of the policies of international financial institutions and trade organizations so that countries and corporations can stick to sustainable processes.

d. Establishing an Independent Environmental Tribunal

The ICC is a significant institution in stopping international crimes, but its jurisdiction is limited, and it may not be convenient to address the complexities of environmental crimes. The emergence of a specific global environmental court for bringing offenders to justice regarding crimes against the environment should promote responsibility. This Tribunal would have representatives of the legal profession and environmentalists who could handle complicated issues, such as intensive cases, scientific proofs, and environmental studies. They could establish it as a United Nations organ, which would be empowered to proceed against persons, business organizations, and state entities for wrecking massive areas of the environment. Ensuring a committed ecocide trial would ensure that ecocide cases are handled by those who have knowledge and interest in the matter competently and sustainably.

e. Strengthening Corporate Liability

Corporations that engage in such destruction are also to blame, and more legal actions must be taken to address ecocide. For instance, environmental crimes require the formulation of regulations designed to check environmental crimes, which include ecological effect assessment, corporate due diligence, criminal code policy, corporate executive management criminality, and corporate criminal culpability. Hence, Governments and international bodies have a significant responsibility; They should provide fines on any organization displaying ecocidal acts, prohibited business functioning, and forceful legal action against executives. They should also block funding for projects that negatively impact the environment and have a large-scale capacity. Corporate governance will be enhanced to ensure that companies adopt the proper measures to reduce the risk of ecocide.

CONCLUSION

Thus, the issues connected with the factor of acknowledging ecocide as an international crime are a crucial step towards improving the level of environmental justice and responsibility. Political and legal hurdles remain, yet the processes for promoting international legal initiatives toward including ecocide in the Rome Statute continue. Through the formulation of legal standards for measuring the crime of ecocide, the adoption of legal processes that will check on the offenders, and collaboration between countries, adequate measures can be put in place to deal with this menace so that the environment can be preserved in readiness for generations to come.

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