

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 8 | Issue 4
2025

© 2025 International Journal of Law Management & Humanities

Follow this and additional works at <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for free and open access by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of any suggestions or complaints, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the International Journal of Law Management & Humanities, kindly email your Manuscript to submission@ijlmh.com.

The Rise of Ecocide Laws: A Global Shift towards Environmental Justice

ANANT MEERA¹

ABSTRACT

This paper explores the evolving concept of ecocide—the large-scale destruction of the natural environment—and the rising global advocacy for its recognition as an international crime. Rooted in the environmental devastation witnessed during the Vietnam War, the term ecocide has gradually gained legal and moral traction over the decades. Initially conceptualized as a broad ethical concern, it has now become a subject of serious legal reform, with increasing support from environmentalists, scientists, and legal scholars worldwide. The paper traces the historical background of ecocide, examining how its meaning has evolved and the growing momentum for its criminalization under international law, particularly through the proposed inclusion in the Rome Statute of the International Criminal Court (ICC). It further analyses the pioneering steps taken by countries such as Ecuador, France, and New Zealand, which have granted legal personhood to nature or formally recognized ecocide within their national legal frameworks. These examples highlight a shift from anthropocentric to ecocentric governance, where nature is seen not just as a resource, but as a rights-bearing entity. The paper also critically assesses India's position, highlighting its rich biodiversity and environmental legislation, while pointing to the lack of a defined legal stance on ecocide. India's potential role in shaping global ecocide jurisprudence is discussed, along with the need to align its legal and policy frameworks with emerging international norms. The paper offers suggestions such as incorporating ecocide into domestic law, strengthening enforcement mechanisms, raising public awareness, and advocating for international cooperation. Recognizing ecocide as a crime is not only a legal necessity but a moral imperative—one that offers a pathway to environmental justice, accountability, and sustainable development for present and future generations.

I. INTRODUCTION

In this sky rocketing era, humanity, is driven by strong desire for progress, constantly exploring the vast realms of innovation. From building cities and industries to embracing modern technological leaps. Human civilization has traversed various stages of advancement.²

¹ Author is an Advocate at Amritsar District Court, Amritsar, India.

² Naukovo, "Ecocide as a crime against nature," *Journal of Legal, Ethical and Regulatory Issues*, Published by

Through ups and downs, human beings remain the centre of attention, serving as both the protagonists and victims of their own story. Amidst this narrative, the environment often takes a backseat despite being crucial for our existence.³ Human activities pose a constant threat to ecosystems, whether in times of war or peace. Hence, hindering the progress we have made.

Wars, in particular, inflict severe damage on nature. “*The environment is the silent victim of conflicts,*” remarked Doug Weir, the research and policy director at the Conflict and Environment Observatory. History reveals that environmental warfare has consistently been employed to conquer the enemies. From Agent Orange in Vietnam to RDX explosives in Ukraine, nature bears the scars of conflict.

Even in the tranquil intervals of peace, ecosystems endure severe damage due to human activities. From stubble burning to raging Amazon fires, from the "Eye of Fire" in the Gulf of Mexico to deforestation surges—human actions continue to scar our planet. It is a potential crime in the eyes of environmentalists and also a daunting challenge: how to prevent environmental destruction comprehensively. Nations tackle it as a crime independently, though the impact is global. Despite legal progress, a clear global framework is missing.

However, the term “Ecocide” with a history spanning nearly five decades, has garnered renewed attention as an ecological genocide. Ecocide is broadly understood to mean mass damage and destruction of ecosystems- severe harm to nature which is widespread or long-term. Ecocide, committed repeatedly over decades, is a root cause of the climate and ecological emergency that we now face.⁴ International legal recognition to ‘ecocide’ as a fifth crime against peace can provide legal teeth to the nature. Recognizing the crime of ecocide calls for a groundbreaking move – giving legal personhood to nature. This marks a significant step forward in environmental jurisprudence. Nature, in this paradigm shift, gains its own voice and a distinct set of rights. It becomes our duty as humans to heed these rights, fostering harmony between environmental protection and human progress. This marks a crucial moment where legal systems and nature intersect, paving the way for a more sustainable future.⁵

Allied Academies, London, United Kingdom, Vol. 2, Iss: 15 27-34 (June, 2023).

³ E. M. Bernikova, “Ecocide - a new crime under international law?” *Juridical Tribune, Bucharest University of Economic Studies, Romania*, Vol. 13, Iss: 1, 5-8 (31 Mar 2023).

⁴ Carol D. Stock, “A Fifth core crime: Crime of ecocide as a new puzzle of the international criminal law,” *Criminal Law Review, Published by Sweet & Maxwell, London, United Kingdom*, Vol. 1, Iss: 1 238-271 (August, 2021).

⁵ Rob Comber, Elin Eriksson, “Computing as Ecocide,” *Computing within Limits*, Vol. 9 54 (June, 2023).

II. MEANING

Ecocide can be understood as the literal act of 'killing the environment.' The term originates from the Greek words *oikos*, which means "house or home," and Latin *caedere*, signifying "to demolish or kill." Therefore, ecocide is a direct translation meaning "killing our home."⁶

In the 1970s, Arthur Galston coined the term 'ecocide' during the Vietnam War, referring to the U.S. military's use of Agent Orange. He compared it to 'genocide,' which was prosecuted in the Nuremberg Trials, though no environmental destruction charges were made.

In 1973, Richard A. Falk, a Princeton professor, pioneered the first definition of ecocide in the Draft Convention Against Ecocide. He described it as actions like using weapons of mass destruction, military chemicals, excessive bombs, and bulldozing, often referencing the U.S. Army's actions during the Vietnam War. This marked the first attempt to classify ecocide as a global crime.

Article 8(2)(b)(iv) of the Rome Statute, relates directly or indirectly to ecocide. It's a crime to:

"Intentionally launch an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated".

This definition, like earlier ones, is anthropocentric⁷, focusing on harm to civilians rather than the environment itself. If an ecosystem without civilians is damaged, it is ignored. Additionally, it only addresses crimes committed during war, limiting its effectiveness in tackling ecocide.

Polly Higgins (1968-2019), a pioneer barrister also known to be earth's lawyer, presented an Amendment to the Rome Statute to the International Law Commission in 2010. Polly Higgins, define Ecocide as:

"Extensive destruction, damage to or loss of ecosystem(s) of a given territory, whether by human agency or by other causes, to such an extent that peaceful enjoyment by the inhabitants of that territory has been severely diminished."

In 2021, the 'Independent Expert Panel' was formed by Polly Higgins who co-founded 'STOP ECOCIDE INTERNATIONAL' with executive director Jojo Mehta. The definition focuses to

⁶ L.A Codispoti, "The limits to growth," *Nature Springer Nature, London, United Kingdom*, Vol. 387, Iss: 6630, 237-245 (May, 1997).

⁷ "Believing that humans are more important than anything else," *Oxford Learner's Dictionaries*.

amend the Rome Statute of the ICC, which currently covers four core crimes under Article 5⁸ but excludes ecocide.

The expert panel of The Stop Ecocide Foundation⁹, defines Ecocide as: *For the purpose of this Statute, "ecocide" means unlawful and 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.*

III. HISTORICAL BACKGROUND

The history of ecocide is complex and has developed over time from different influences. The concept of "ecocide" isn't new—it originated in the 1970s, largely in response to environmental destruction during the Vietnam War, particularly by the US military's use of Agent Orange.

In August 1970, three American scientists visited an elderly woman's home in Beu Cat, South Vietnam. Five weeks before their visit, eighty of her chickens had died, and some of the survivors couldn't stand. A wide strip of jungle covering her village had many sick trees. Leaves on banana trees were dead, and mango leaves were shrivelled. The village's deputy chief reported that half of the village's 200 pigs and 10,000 chickens were sick. One scientist noted in his diary that the chickens stopped eating and, when they died, ran in circles.

These scientists were part of the American Herbicide Assessment Commission, a group of biologists who volunteered to check the Pentagon's claim that the chemical Agent Orange didn't harm humans or animals. The US government said using this herbicide to clear vegetation in Vietnam was a military strategy to deprive guerrillas of food and cover. A US military scientist said, "No one appreciates food or invisibility more than those deprived of it."

After their survey, a group of scientists started calling this strategy "ecocide" instead of a military tactic. The commission's work confirmed that defoliation caused massive ecological damage. They used this evidence to argue before senators that the Geneva Protocols, which limit the barbarity of war, should also ban herbicidal weapons. They claimed that the harm to plants inevitably harmed the civilians who depended on them.

⁸ Article 5 of the Legislation – Crimes within the jurisdiction of the Court- The jurisdiction of the Court shall be limited to the most serious crimes of the concern to the international community as a whole. The court has jurisdiction in accordance with this Statute with respect to the following crimes:

(a) The crime of genocide;
(b) Crime against humanity;
(c) War crimes;
(d) The crime of aggression.

⁹ 'Independent Expert Panel for the Legal Definition of Ecocide,' commentary and core text, Stop Ecocide Foundation (July 22, 2025, 11:53 AM), <https://www.stopecocide.earth/legal-definition>

One key figure in these hearings was Arthur Galston, chair of the Botany Department at Yale University. As a graduate student, Galston had invented chemical defoliants that later helped create Agent Orange. He passionately argued that humans depend on vegetation for survival, despite feeling powerful from technological advancements.¹⁰

The term 'Ecocide' was proposed by biologist Arthur W. Galston, who was deeply concerned about the environmental damage caused by chemical warfare. Galston coined the term "ecocide," drawing on the moral weight of "genocide" from the Nuremberg trials, aiming to extend this seriousness to environmental damage.¹¹ The term had broader appeal than "imperialist poison war," used by Environmentalists often cite the Nuremberg Trials as a foundational moment for the development of international law that could support the prosecution of ecocide. The Nuremberg Trials, conducted after World War II, were pivotal in establishing the principle that individuals and leaders could be held accountable for crimes against humanity and war crimes. Despite initial resistance, Galston's advocacy led to discussions about ecocide as a serious international issue.

The United Nations Conference on the Human Environment in Stockholm in 1972 marked a key moment, where leaders like Sweden's Prime Minister labelled the war's environmental damage as ecocide. The efforts to include environmental crimes in international law faced significant challenges from the 1980s to the 1990s.

Initially, proposals to criminalize severe environmental damage were debated within the International Law Commission (ILC), aiming to incorporate them into a draft Code of Crimes Against the Peace and Security of Mankind. However, disagreements arose over whether intent should be a requirement for such crimes. By 1996, despite ongoing discussions and various draft versions, Article 26, which addressed wilful environmental damage, was ultimately removed from the draft Code due to opposition from several governments.

Polly Higgin's contribution and Stop Ecocide Foundation

In 2010 Polly Higgins, a long-time employment lawyer with a passion for the environment, began to investigate into past efforts to criminalize large-scale environmental destruction. Her research had led her to see the responsibility to address massive environmental damage as a missing plank of the ICC's legitimacy.

Higgins began to build a campaign around it. She presented her own definition of ecocide to the UN Law Commission, Higgins's definition spoke about "extensive loss, damage, or

¹⁰ *Ibid.*

¹¹ *Ibid.*

destruction of ecosystems” and its effects on “the peaceful enjoyment of the inhabitants.”

Higgins founded the Stop Ecocide Foundation, which aims to establish ecocide as an international crime. The foundation has been instrumental in raising awareness and driving legislative initiatives at the international level. In 2021, an Independent Expert Panel, supported by Stop Ecocide International, proposed an amendment to the Rome Statute of the International Criminal Court (ICC) to include ecocide. This proposal aimed to address severe environmental harm through international prosecution, despite facing significant challenges and opposition due to entrenched anthropocentric legal frameworks and political constraints.¹²

In 2019, Polly Higgins died of lung cancer, leaving the Stop Ecocide movement without its leader. Her death spurred global action. Vanuatu urged the ICC to recognize ecocide, and Sweden sought a definition. The Stop Ecocide Foundation formed a diverse expert panel to create a globally accepted definition. The definition so formulated has already been discussed above.

Aftermath of definition of Ecocide by Independent Expert panel

The response to the Panel's definition of ecocide, released in June 2021, was unexpectedly strong. The panel had no official mandate or connection to the ICC, yet the media showed intense interest, with even mainstream outlets like *The Economist* covering the story. Nationally, the definition has influenced efforts to criminalize ecocide in domestic laws. For instance, although Chile's proposed constitution, which included ecocide, was rejected in 2022, France has made ecocide a medium-severity crime with a ten-year sentence. Lately, on 27 November, 2024, the congress of Peru has approved a motion to criminalise ecocide and incorporate key elements of definition given by expert panel. In September, 2024 Ecocide has been formally introduced for consideration by member states of ICC.

IV. RECOGNITION OF ECOCIDE BY ROME STATUTE OF INTERNATIONAL CRIMINAL COURT, 1998

Whether this sentiment is overly optimistic or realistic, the path to making ecocide an international crime is now in the hands of the ICC's 123 member states. These states must request a vote on the issue, which requires a two-thirds majority to pass.

This potential vote highlights how much the concept of ecocide has evolved since the 1960s, when scientists were first trying to define widespread environmental destruction during the Vietnam War. Ecocide is now associated not only with wartime activities but also with

¹² Elliot Winter, “Stop Ecocide International's Blueprint for Ecocide Is Compromised by Anthropocentrism: A New Architect Must Be Found,” *Israel Law Review*, Jerusalem, Israel 77-95 (March, 2023).

significant environmental harm caused by peacetime activities in the era of climate change.

Some ICC member states, such as Vanuatu, the Maldives, Samoa, and Bangladesh, have already endorsed the proposal to criminalize ecocide, likely influenced by their vulnerability to climate change impacts like rising sea levels. In Europe, there is growing political support, with Belgium and Luxembourg raising the issue at the ICC, and discussions or inquiries happening in Denmark, Spain, France, Scotland, Ireland, and Iceland. The European Union is also considering including ecocide under EU law.

In 2016, the ICC Prosecutor's Office announced a significant shift in its approach, indicating a focus on prosecuting crimes that cause environmental harm, exploit natural resources illegally, or involve unlawful land seizures. This change was underscored by the publication of a Policy Paper on Case Selection and Prioritization, outlining new priorities for the Prosecutor's investigations.¹³

The Policy Paper highlighted that when assessing the seriousness of crimes, the ICC would now take into account their environmental impact. This includes considering the social, economic, and environmental damage inflicted on affected communities. Specifically, crimes causing or resulting in environmental destruction, illegal resource exploitation, or land dispossession would be given particular scrutiny for prosecution under the Rome Statute.¹⁴

The document has sparked discussions and media coverage, with some interpreting it as a step towards recognizing ecocide as a missing category of international law.¹⁵

Despite these updates, the ICC's jurisdiction remains confined to four core crimes: genocide, crimes against humanity, war crimes, and aggression. Environmental crimes, such as ecocide, are not explicitly listed among these core crimes. Therefore, while the Policy Paper allows the ICC to consider environmental impacts when evaluating the gravity of cases, it does not empower the Court to prosecute ecocide as a distinct crime under current statutes.¹⁶

In the the context of the ICC's Working Group on Amendments, on the 9th September 2024, Vanuatu, with co-sponsorship from Fiji and Samoa, tabled a proposal to include an independent crime of ecocide in the Rome Statute. This has now also been supported by the Democratic Republic of Congo.

¹³ Office of the Prosecutor, *Policy Paper on Case Selection and Prioritization*. International Criminal Court, 2016, (July 22, 2025, 1:03 PM), https://www.icc-cpi.int/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf.

¹⁴ *Id.*

¹⁵ Vidal, John, and Owen Bowcott. "ICC Widens Remit to Include Environmental Destruction Cases." *The Guardian*, (July 22, 2025, 2:33 PM), www.theguardian.com/global/2016/sep/15/hague-court-widens-remit-to-include-environmental-destruction-cases.

¹⁶ *Id.* (emphasis added)

Currently, it's unclear if examples of environmental damage would meet the Panel's definition for prosecution. However, the concept of ecocide as a serious crime against the Earth, punishable by imprisonment, remains influential. It is a powerful idea for activists, allowing them to hold leaders and corporations accountable for environmental catastrophes by asking not only "What happened?" but "Who gave the orders?"

For some, this shift in awareness is already a significant achievement.¹⁷

V. COUNTRIES ADOPTING FOR ECOCIDE – RISING LAWS ON ECOCIDE

Early states: From 1990 onward, several countries took legislative steps to criminalize ecocide, recognizing its devastating impact on the environment and human life. Vietnam was one of the earliest nations to acknowledge ecocide, incorporating legal provisions against severe environmental destruction in 1990. This was followed by Uzbekistan in 1994, which criminalized acts leading to mass destruction of flora and fauna, as well as large-scale environmental pollution. In 1996, Russia introduced Article 358 in its Criminal Code, defining ecocide as mass destruction of flora and fauna, poisoning of natural resources, and other actions causing ecological catastrophe. Kazakhstan and Kyrgyzstan followed suit in 1997, penalizing large-scale environmental damage and pollution. Tajikistan (1998) and Belarus (1999) incorporated similar provisions in their legal frameworks, targeting activities that could result in ecological disasters. Georgia also introduced ecocide laws in 1999, making it one of the leading post-Soviet nations in environmental protection.

In the early 2000s, other nations began integrating ecocide into their legal systems. Moldova criminalized severe environmental destruction in 2002, followed by Armenia in 2003, which included ecocide as a punishable offense under Article 394 of its Criminal Code. A significant milestone was reached in 2008 when Ecuador became the first country in the world to grant legal rights to nature through its Constitution. This groundbreaking move allowed ecosystems to be recognized as legal entities, enabling them to be represented in court against harmful activities. Further strengthening its environmental legislation, Ecuador introduced specific penal codes addressing ecocide in 2014, solidifying its commitment to protecting the environment.

Bolivia's "Law of the Rights of Mother Earth" (Ley de Derechos de la Madre Tierra), enacted in 2010, recognizes the Earth as a legal entity with rights. While it does not specifically mention ecocide, it establishes a framework for protecting the environment and holding those who cause severe environmental harm accountable.

¹⁷ *Ibid.*

These early legislative efforts laid the foundation for subsequent global initiatives against ecocide. Many of these nations criminalized ecocide as an act of mass environmental destruction, ensuring accountability for individuals and corporations responsible for severe environmental harm. The inclusion of ecocide in legal frameworks marked a shift toward greater environmental responsibility and set a precedent for future legislative actions worldwide.

Leading states:

- **France:** In 2021, France approved a draft bill¹⁸ that includes provisions for the crime of ecocide. The proposed law defines ecocide as the most severe environmental offenses that cause significant and lasting damage to ecosystems and introduces severe penalties for such crimes. Climate & Resilience Act passed, including up to 10 years sentences for "ecocide" offences (Art 231-3) and a requirement for gov't to report on progress towards international crime of ecocide (Art 296). This move establishes a legal precedent within the European Union and signals growing recognition of environmental harm as a grave offense.
- **Belgium** has been at the forefront of the ecocide movement within Europe. In February 2024, the Belgian Federal Parliament approved a new penal code that, for the first time in Europe, includes recognition of the crime of ecocide at both national and international levels. This landmark legislation aims to prevent and punish the most severe cases of environmental degradation, such as extensive oil spills, and applies to individuals in the highest positions of decision-making power as well as corporations.
- **European Union:** At the regional level, the European Union has made significant strides in addressing environmental crimes comparable to ecocide. In March 2024, the European Council formally adopted a new environmental crime directive, which includes provisions to criminalize cases 'comparable to ecocide.' Member states now have a 24-month period to align their national legislation with the newly adopted directive, marking a substantial commitment to environmental protection across Europe.
- **Vanuatu, Fiji, and Samoa** have played a pivotal role in advocating for the international recognition of ecocide. In September 2024, these nations formally introduced the crime of ecocide for consideration by member states of the ICC. This

¹⁸ Hwang ,Jisun Hwang, "War Against "Ecocide": An Examination of Global Discourse and Controversies," *International journal of humanities, social sciences and education*, Vol. 9, Iss: 10, 125 (Jan, 2022).

collective action represents a major advancement in the global effort to enshrine mass environmental destruction as a crime under international law.

- **Democratic Republic of Congo (DRC):** In October 2024, the DRC became the first African nation to formally endorse the creation of an international crime of ecocide. This endorsement followed a proposal from Pacific nations to add ecocide to the Rome Statute of the International Criminal Court (ICC), marking a significant step in global efforts to recognize and prosecute severe environmental crimes.
- **Azerbaijan** has initiated legislative measures to address ecocide within its national legal system. In October 2024, the Milli Majlis (Azerbaijan's parliament) passed the first reading of a bill introducing the crime of ecocide into the country's Criminal Code. Proposed by President Ilham Aliyev, the bill seeks to impose custodial sentences ranging from 10 to 15 years for individuals convicted of committing severe environmental damage.
- **Peru** has demonstrated a proactive approach toward criminalizing ecocide. On November 27, 2024, the Justice and Human Rights Commission of the Peruvian Congress approved a motion to incorporate ecocide into the national Penal Code. This proposed amendment closely aligns with the consensus definition of ecocide produced by the Independent Expert Panel convened by the Stop Ecocide Foundation. The motion now awaits plenary approval by Congress and presidential promulgation to become law.
- **Türkiye** has experienced growing cross-party momentum toward recognizing ecocide in law. In November 2023, a citizen petition advocating for a criminal ecocide law gained support from the main opposition Republican People's Party (CHP). Subsequently, in early 2025, CHP MP Nimet Özdemir proposed an amendment to the penal code to criminalize ecocide, aligning with international efforts at the ICC. These developments reflect increasing political and public backing for ecocide legislation in Türkiye.

VI. INTERNATIONAL AND NATIONAL LEGAL FRAMEWORK ON ECOCIDE IN INDIA

International legal frameworks significantly influence national policies on ecocide by setting standards, guidelines, and fostering cooperation among nations. However, the Indian government has yet to formally recognize ecocide as a distinct legal concept. Despite this, existing laws can be leveraged to address severe environmental destruction within India's robust legal framework for environmental protection. India has been an active participant in

numerous international environmental conventions, protocols, and agreements. The country's involvement in the Stockholm Conference of 1972 and the Rio Conference of 1992 highlights its long-standing engagement in global environmental governance.¹⁹ India has also ratified and adopted several international treaties into national law, adhering to the norms established in international environmental law, and addressing issues such as air pollution, endangered species, and global commons. Notably, India is a signatory to the Montreal Protocol on Substances that Deplete the Stratospheric Ozone Layer, showcasing its commitment to phasing out ozone-depleting substances well ahead of the agreed schedule.²⁰ Furthermore, empirical studies suggest that India's participation in these agreements is influenced by institutional quality and environmental lobbying.²¹ The collective efforts and legal frameworks, supported by active judiciary and enforcement bodies like the National Green Tribunal, underline India's comprehensive approach towards environmental protection.

India's commitment to environmental protection is enshrined in its Constitution and further reinforced through various legislative measures and landmark judicial decisions. Various Legislative frameworks include majorly The Water (Prevention and Control of Pollution) Act, 1974, The Air (Prevention and Control of Pollution) Act, 1981, The Environment (Protection) Act, 1986, The Wildlife (Protection) Act, 1972, The Forest (Conservation) Act, 1980, and The National Green Tribunal Act, 2010. So, hereunder is the detailed analysis of Indian legislative framework for environmental degradation and its protection.

Constitutional Framework

India's commitment to environmental protection is enshrined in its Constitution, reinforced through legislative measures and judicial decisions. The primary constitutional provisions related to environmental protection include:

Article 21: Right to Life and Environmental Protection

Article 21 of the Indian Constitution guarantees the right to life and personal liberty. The Supreme Court has interpreted this right to include the right to a clean and healthy environment, thereby ensuring that environmental concerns are integral to the protection of fundamental rights.

¹⁹ Karan Singh, *Looking Through Indira Gandhi's Vision: Some Recollections* (Amsterdam: IOS Press, 2022) 29.

²⁰ Garima, "India's management and governance in protecting the stratospheric ozone layer," *Current Science*, Vol. 123, Iss. 5 635 (July, 2022).

²¹ Francesco Bellelli, Riccardo Scarpa, "An Empirical Analysis of Participation in International Environmental Agreements," *Social Science Research Network*, 41 (January, 2023).

Article 48A: State's Duty to Protect the Environment

Article 48A, added through the 42nd Amendment (1976), mandates the state to protect and improve the environment and safeguard forests and wildlife. Though part of the Directive Principles of State Policy (DPSP) and non-enforceable in a court of law, it serves as a guiding principle for environmental governance and policymaking.

Article 51A(g): Fundamental Duty of Citizens

Article 51A(g) places an obligation on every citizen to protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to show compassion for all living creatures. This provision fosters environmental consciousness and encourages active public participation in conservation efforts.

Role of Judiciary

While the Constitution provides a legal framework for environmental protection, the judiciary has played a significant role in interpreting and enforcing these provisions through landmark judgments. The following case laws have shaped India's environmental jurisprudence:

- **Subhash Kumar v. State of Bihar (1991)²²:** This case reaffirmed that the right to life under Article 21 includes the right to pollution-free water and air. The Supreme Court held that industries and businesses cannot be allowed to function at the cost of public health and environmental degradation. The judgment empowered citizens to approach the court through Public Interest Litigations (PILs) for environmental protection.
- **Ratlam Municipal Council v. Vardhichand (1980)²³:** The Supreme Court ruled that municipalities are duty-bound to prevent and control pollution within their jurisdictions. The case arose when residents of Ratlam, Madhya Pradesh, filed a petition against the local municipality for failing to address serious sanitation and pollution issues. The Court emphasized that financial constraints cannot be an excuse for municipal authorities to neglect their responsibility to maintain a clean environment.
- **M.C. Mehta v. Union of India (1987) (Oleum Gas Leak Case)²⁴:** Following the Bhopal Gas Tragedy (1984), this case established the **absolute liability principle**, holding industries engaged in hazardous activities strictly liable for any environmental damage. Unlike strict liability, which allows exceptions, absolute liability imposes complete

²² Subhash Kumar v. State of Bihar (1991) SC 420 (India).

²³ Ratlam Municipal Council v. Vardhichand (1980) SC 1622 (India).

²⁴ M.C. Mehta v. Union of India (1987) SCR (1) 819 (India).

responsibility on industries without any defense. This ruling strengthened industrial accountability in environmental law.

- **Vellore Citizens' Welfare Forum v. Union of India (1996)**²⁵: This case introduced the **Polluter Pays Principle**, mandating that those responsible for pollution bear the cost of its mitigation. The Court also recognized the Precautionary Principle, emphasizing that authorities must anticipate and prevent environmental harm rather than merely responding after damage has occurred. The case involved tanneries in Tamil Nadu discharging toxic chemicals into local water bodies, leading to severe environmental degradation.

- **M.C. Mehta v. Kamal Nath (1997)**²⁶: In this case, the Supreme Court applied the **public trust doctrine**, ruling that natural resources are held in trust by the state for the benefit of future generations. The case involved a private company's attempt to divert a river's flow for commercial purposes, which was deemed illegal as it violated environmental principles and harmed public interest. This judgment reinforced the idea that private commercial interests cannot override environmental protection.

- **T.N. Godavarman Thirumulpad v. Union of India (1997)**²⁷: This landmark case led to the continuous monitoring of forest conservation efforts by the Supreme Court. The judgment expanded the definition of "forests" to include all areas that fit the dictionary meaning of the term, rather than just those officially recorded. The Court issued continuous mandamus to enforce forest conservation laws, preventing large-scale deforestation and unauthorized land use.

- **Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh (1985)**²⁸: Also known as the **Doon Valley Quarrying Case**, this ruling marked the first time the Supreme Court prioritized environmental concerns over economic interests. The Court ordered the closure of limestone quarries that were causing extensive ecological damage, ruling that environmental protection is essential for securing the right to life under Article 21.

- **M K Ranjitsinh & Ors. v. Union of India & Ors. (2024)**²⁹: This recent Supreme Court ruling established the right to be free from the adverse effects of climate change as a fundamental right under Article 21. The Court recognized that climate change threatens life,

²⁵ Vellore Citizens' Welfare Forum v. Union of India (1996) SC 2715 (India).

²⁶ M.C. Mehta v. Kamal Nath (1997) 1 SCC 388 (India).

²⁷ T.N. Godavarman Thirumulpad v. Union of India (1997) 2 SCC 267 (India).

²⁸ Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh (1985) SC 652 (India).

²⁹ M K Ranjitsinh & Ors. v. Union of India & Ors. (2024) SC 209 (India).

health, and livelihoods, thereby requiring urgent legal and policy interventions to mitigate its impacts.

- **Ratheesh v. State of Kerala & Others (2018):** In this significant case, the Kerala High Court defined **ecocide** as the deliberate and extensive destruction of the environment, which endangers ecosystems and human life. The case was filed in response to large-scale deforestation, illegal mining, and industrial pollution in Kerala. The Court ruled that such activities amount to ecocide and should be treated as grave offenses warranting strict legal consequences. This ruling aligns with global efforts to criminalize ecocide and underscores the need for statutory recognition of ecocide in India.

INDIA'S STATUS ON RECOGNISING ECOCIDE

India is not a signatory to the Rome Statute of the International Criminal Court (ICC) of 1998. The Rome Statute is the treaty that established the ICC, which is the world's first permanent international court with jurisdiction to prosecute individuals for the international crimes of genocide, crimes against humanity, war crimes, and the crime of aggression.

India participated in the negotiations of the Rome Statute but ultimately decided not to sign the treaty. The primary reasons for India's decision include concerns over the potential for politically motivated prosecutions, the lack of clarity in some of the definitions of crimes, and the ICC's authority to intervene in situations that India believes should be handled domestically.

India has raised several objections to the Rome Statute, the treaty that established the International Criminal Court (ICC). These objections stem from concerns about the implications of the Statute for national sovereignty, the legal framework, and geopolitical considerations. This is a major problem for addressing Ecocide by India, because until and unless it is not signatory to Rome Statute which is the main legislation to address Ecocide or may address in the coming years. It can become a major setback for India for addressing rights of the nature and legal implementation of the same. It can also affect the international relations of India while making environmental decisions.

However, despite the fact that India is not a signatory to the Rome Statute, it is important to note that in 2017, the Uttarakhand High Court recognized the Ganges and Yamuna rivers as legal persons with rights equivalent to those of a human being in the case of *Mohd. Salim v. State of Uttarakhand & Others*. The Ganges (Ganga) and Yamuna rivers are among the most sacred and culturally significant rivers in India. They are vital to the religious, cultural, and economic life of millions of Indians. However, both rivers suffer from severe pollution and

ecological degradation due to industrial discharge, untreated sewage, and various human activities. The ecological health of the Ganges and Yamuna has deteriorated over decades, posing serious risks to human health and the environment. Numerous initiatives and policies aimed at cleaning and restoring these rivers have had limited success. In March 2017, the Uttarakhand High Court recognized the Ganges and Yamuna rivers as legal persons with rights equivalent to those of a human being. This landmark decision came in response to a Public Interest Litigation (PIL) seeking the protection and preservation of the rivers.

The court declared the rivers, along with their tributaries, glaciers, and catchment areas, as living entities. This legal status aims to ensure their protection and rejuvenation, recognizing their vital ecological and cultural roles. The ruling appointed several government officials as guardians of the rivers, including the Director of the Namami Gange program (a government initiative for the cleanup and protection of the Ganges). These guardians are responsible for upholding the rights of the rivers, ensuring their protection, and addressing any harm caused to them.

The ruling emphasizes the accountability of polluters and mandates strict enforcement of laws and regulations to prevent further degradation. It calls for comprehensive measures to clean and restore the rivers, including infrastructure development and community involvement. The legal recognition of the Ganges and Yamuna as living entities is a significant step towards stronger environmental governance and the protection of India's vital water resources. It elevates the rivers' status in the legal system, ensuring their rights are considered in policy-making and judicial decisions. The ruling also highlights the need for collaborative efforts between government agencies, civil society, and local communities to restore the ecological health of the rivers.

VII. ECOCIDE AS A THREAT TO SUSTAINABLE DEVELOPMENT AND THE ROLE OF LEGAL PERSONHOOD FOR NATURE

Ecocide poses a significant threat to sustainable development by undermining environmental integrity, economic resilience, and social stability. Large-scale environmental destruction through illegal mining, deforestation, and toxic waste accumulation disrupts biodiversity, degrades ecosystems, and compromises the foundation upon which human well-being depends. Developing nations like India are especially vulnerable, as rapid industrialization and urbanization accelerate habitat loss, pollution, and social conflict. Ecocide-linked issues such as “green militarization” and displacement further erode community resilience and conservation efforts, making it clear that environmental protection is inseparable from

developmental goals.

To effectively criminalize ecocide, a critical prerequisite is the recognition of nature's legal personhood. This represents a transformative shift from an anthropocentric to an ecocentric model of environmental governance, where ecosystems are no longer viewed merely as resources, but as rights-bearing entities with intrinsic value. Granting legal rights to nature enables the prosecution of those who cause severe environmental harm, as it provides a legal foundation to hold perpetrators accountable for violating the rights of ecosystems.

Countries like Ecuador and New Zealand have set global precedents by recognizing rivers and forests as legal persons, empowering courts to intervene in cases of ecological harm. Legal mechanisms such as constitutional amendments, specific legislation, and progressive judicial rulings can institutionalize this shift. Despite challenges rooted in existing legal traditions, enforcement gaps, and economic interests, the personhood of nature strengthens environmental accountability, supports the achievement of Sustainable Development Goals (SDGs), and fosters international cooperation.

Ultimately, criminalizing ecocide through the lens of nature's legal rights ensures that environmental destruction is not only condemned but punished. It aligns ecological protection with human justice, emphasizing that safeguarding the Earth is essential for sustaining life, equity, and prosperity for generations to come.

VIII. CHALLENGES IN CRIMINALISING ECOCIDE

Addressing ecocide through international law is a critical endeavour in our current era, marked by escalating environmental challenges and the urgent need for global cooperation. The concept of ecocide refers to severe and widespread environmental destruction, often caused by human activities such as deforestation, pollution, and habitat destruction. While international environmental laws exist, there is no specific global framework dedicated solely to prosecuting ecocide as a crime. However, recent developments indicate growing momentum towards recognizing ecocide as a serious offense under international law.

Formulating ecocide as a crime is challenging due to the lack of a universally accepted definition. Initially used to describe herbicide use in the Vietnam War, the term has since evolved, but its vague interpretation makes it difficult to criminalize environmental destruction effectively. Unlike war crimes or genocide, ecocide lacks legal precedence and clarity, limiting its acceptance in international law.

Countries like France, New Zealand, and Ecuador have taken pioneering steps towards legal

frameworks that prioritize environmental protection and recognize the intrinsic value of nature. India, with its diverse ecosystems and environmental challenges, has an opportunity to strengthen its legal and institutional frameworks to combat ecocide effectively. By drawing inspiration from international best practices and fostering international cooperation, India can enhance its efforts to protect the environment for current and future generations. This holistic approach is essential for mitigating the impact of human activities on the environment and promoting sustainable development globally.

Another challenge is proving intent. Proponents argue for strict liability, holding corporations accountable regardless of intent. However, criminal law typically requires intent, and the Rome Statute mandates that responsibility arises only when actions are intentional or knowingly harmful. This limits the prosecution of ecological disasters like oil spills, which often result from negligence rather than deliberate harm.

Causation presents further obstacles, as environmental damage results from numerous small actions over time, making it difficult to hold individuals accountable. Climate change, often considered a form of ecocide, lacks a clear perpetrator, as everyone contributes to it. Some propose holding corporate leaders responsible, but prosecuting an entire system remains impractical.

Additionally, the ICC's jurisdiction is limited to signatory states, excluding major polluters like the U.S., China, and India. Given these legal and practical difficulties, a specialized international environmental court may be better suited to address ecocide effectively.

IX. CONCLUSION AND SUGGESTIONS

The shift from an anthropocentric to an ecocentric approach recognizes nature's intrinsic value, promoting stronger environmental protection. The concept of ecocide, emerging in the 1970s, has gained legal traction, with countries like France and Ecuador granting legal personhood to nature. Challenges include weak governance, economic conflicts, and legal traditions. International cooperation, such as through UNEA, is crucial. Strengthening legal frameworks, enforcement mechanisms, and public awareness can drive change. Recognizing ecocide as an international crime ensures accountability. Aligning these efforts with Sustainable Development Goals fosters a more sustainable future, protecting nature's rights and combating environmental destruction. The involvement of indigenous communities and local stakeholders is also essential, as they often possess traditional knowledge and sustainable practices that can contribute to conservation efforts.

The global recognition of nature's legal rights and the rise of ecocide laws mark a significant

shift toward stronger environmental governance. Countries like France, Ecuador, and New Zealand have pioneered legal frameworks granting personhood to nature, setting a precedent for others. The growing momentum to criminalize ecocide reflects an urgent need to hold perpetrators accountable for large-scale environmental destruction. However, challenges persist in enforcement, governance, and balancing economic interests with nature's protection. Strengthening legal frameworks, establishing specialized environmental courts, and promoting international cooperation are crucial for effective implementation. Recognizing ecocide as an international crime would enhance global accountability and encourage preventive measures. International platforms like the United Nations Environment Assembly (UNEA) play a key role in fostering collaboration and sharing best practices. By integrating ecocide laws with Sustainable Development Goals, nations can ensure a just, sustainable future where environmental preservation is prioritized, reinforcing the urgent need for global action. Countries should consider incorporating nature's rights into their constitutions and enacting specific laws to protect natural entities. Establishing clear definitions and penalties for ecocide to ensure that perpetrators of severe environmental damage are held accountable.

The growing global recognition of ecocide marks a profound turning point in our relationship with nature. From the rainforests of Ecuador to the rivers of New Zealand and the courts of France, nations are beginning to speak a new language of justice—one where the Earth itself is a rightful subject of law. This rising legal tide signals more than policy change; it reflects a moral awakening. As ecocide gains ground worldwide, humanity moves closer to a future where environmental destruction is not just condemned but prosecuted. In protecting nature's rights, we are ultimately protecting our own. The time is now.
