

State Responsibility's Possibility in Ecocide: A Proposal

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Abstract

This paper aims to analyse the potential for a State to be held accountable for Ecocide associated with Climate Change within the established framework of the International Court of Justice and the International Criminal Court. The issue of climate change and the appearance of ecocrime are interesting subjects of study. Climate change has a significant impact not only on environmental issues but also on crime, making it the responsibility of all parties (States and Individuals/Corporations). The International Criminal Court recognizes the State's responsibility for climate change. However, it needs to be questioned whether the State can be held responsible for the emergence of ecocide in the context of climate change. This study adopts a normative-conceptual legal research methodology with a prescriptive orientation. The sources for this research process are International Conventions and/or Documents, Law and Regulations. The conceptual and statutory approach is used in the article to analyze the situation. The study finds that there is a need to understand the manifestation of the State's responsibility in the context of climate change and to further elaborate on the possibility of crime arising from climate change. It must be understood that shifting the paradigm of cross-jurisdictional thinking for both the International Court of Justice and the International Criminal Court is necessary.

KEYWORDS: Ecocide; Elaboration of Jurisdiction; State's Responsibility Possibility

Introduction

There have been significant increases in crime in the post-industrial Revolution era. The environment is the shared responsibility of all stakeholders. The prevalence of environmental crime (later called green crime) will threaten the State's quality of life. The rise of ecocrime undoubtedly poses a severe threat to the country, especially given the challenge of climate change. The ecocrime is a severe and organized crime that transcends borders. Ecocrime is a severe, organized crime that transcends borders. A comprehensive and targeted approach must be developed to prevent the growing threat of economic crime that could harm the country.

Ecocide is an environmental crime that can endanger human rights and must be treated as a serious crime. Ecocide will be any deliberate neglect of actions for environmental destruction. The destruction is linked to practices such as widespread logging, drilling and mining activities, and deep-sea trawling. Ecocide encompasses all actions undertaken by an entity that harm the environment, or any activities intrinsically linked to the environment, without regard for the effects of environmental conditions, particularly when the adverse effects of these activities occur on a large scale and are prolonged. Ecocide is a crime against the environment. The environment has a widespread effect that injures all human beings in this universe. Building a healthy environment needs public awareness.

Ecocide is now endemic to the entire planet, as the ecological structures that support life on Earth are collapsing everywhere. Climate change disrupts seasonal rhythms that should be reliable for sustaining human life. Jojo Mehta and Julia Jackson explained that the Paris Agreement was failing.¹ Nevertheless, there is still hope for

¹ Jojo Mehta and Julia Jackson, "To Stop Climate Disaster, Make Ecocide an International Crime. It's the Only Way," *The Guardian*, February 24, 2021, <https://www.theguardian.com/profile/jojo-mehta>.

protecting a habitable planet. An expanding international initiative to criminalize Ecocide can tackle the fundamental causes of Climate catastrophe and safeguard the Earth, the universal habitat for all humankind and species on Earth. Then, without drastic measures to keep the temperature rising below 1.5°C, it will have devastating effects on the planet and all human beings who live there. In this context, Jojo Mehta and Julia Jackson explain how to connect the issue to ecocide, arguing that establishing ecocide as a crime will give hope to people who are hopeless nowadays. The enactment of ecocide legislation across jurisdictions, provides an opportunity to address the deficiencies in addressing climate change following the Paris Agreement. As mentioned, the Paris Agreement lacks enough ambition, transparency, and accountability. The idea of criminalizing ecocide would be a coercive deterrent, and the action to ban ecocide would address one of the leading causes of global climate change. The widespread destruction of nature can increase greenhouse gas emissions. It devastates global health, food and water security, and sustainable development.

On March 1, 2023, the United Nations General Assembly released draft resolution A/77/L.58, seeking an advisory opinion from the International Court of Justice on state responsibilities regarding climate change. The resolution highlights that climate change poses an extraordinary challenge of immense magnitude, emphasizing that the welfare of both present and future generations hinges on prompt, decisive action. The U.N. General Assembly Resolution A/77/L58 reminds all countries, especially developing countries, of the negative impacts of climate change. In nations most susceptible to it, such as the least developed countries, greenhouse gas emissions persist in escalating despite considerable limitations on industrial capability. The increasing prevalence of prolonged drought and extreme weather in small island developing states, together with land loss and degradation, sea level rise, coastal erosion, ocean acidification, and the retreat of mountain glaciers, is expected to displace affected populations and further threaten food security. Addressing climate

change is essential for reducing poverty and promoting sustainable development.

Climate change leads to rising temperatures and extremes weather. These changes lead to increasingly significant social, cultural, economic, and environmental challenges. U.N. General Assembly, through Resolution A/77/L.58, requested the ICJ to advise on questions concerning preventing substantial environmental harm and the obligation to protect and conserve the marine environment. The U.N. General Assembly has a responsibility to every State to protect future generations from the effects of climate change.

The proposal to criminalize ecocide as a form of environmental crime has emerged in academic and legal discourse in response to the significant impact of such offenses. This approach would establish the liability of individuals and corporations responsible for committing ecocide. The International Criminal Court (ICC) would possess jurisdiction to adjudicate offenders of these international crimes. Environmental crime, when classified as ecocide, would implicate a broad range of actors, including individuals, corporations, and states. However, under international criminal law, ecocide as an international crime would be prosecuted before the ICC, which holds jurisdiction over individuals rather than states.

Unfortunately, formulating ecocide, proposed as the fifth international crime under the jurisdiction of the Rome Statute, is not as straightforward as it is presented. Ecocide cannot be just reformulated, whether it is a Genocide, Crime against humanity, or any other new formulation, but it is vital to consider the just perspective by measuring the issues of greenflation itself. It is crucial to consider the justice issues that arise between developed countries, which act as users of the Green and developing countries, as actors in the Green.

States need to redesign climate change-related ecocide frameworks to ensure clear responsibility. Integrating the idea of ICJ jurisdiction with that of the ICC is necessary. However, since the ICC cannot prosecute States as perpetrators, there must be a theory that

shifts and clarifies State responsibility for ecological disasters caused by climate change.

In literature, the concept of command responsibility exists. Though command responsibility is limited to War Crimes, the concept has been extended to ecocide. Suppose ecocide related to climate change is recognized as part of ecocide. In that case, the ICC must possess jurisdiction to adjudicate, but the State must be held responsible for any omission and/or commission by subordinates' negligence (ministry or local Government) in supervising and punishing any corporation or person licensed to do business in the managed environment. Then, the punishment must fit the model punishment for a State. The legal maxim *Culpa Poena par Esto* reminds us that the punishment should equal the crime. From the standpoint of international law, it can be constructed through *Ius Cogens*.

Several previous studies have explored the possibility of recognizing ecocide as a new international crime, either incorporated into the Rome Statute or elevated to the status of *jus cogens*. In her paper, Orsolya Johanna Sziebig critically examines whether recognizing ecocide through a human rights approach—rather than solely via international criminal law—offers a more effective framework for addressing environmental destruction during the Russo-Ukrainian armed conflict. By analyzing the environmental devastation caused by this conflict, including extensive pollution, habitat degradation, and species extinction. The paper argues that the traditional human rights framework inadequately addresses environmental rights and advocates for recognizing the right to a healthy environment as a fundamental human right. It explores the potential of applying a human rights approach to ecocide legislation, contrasting it with the traditional international criminal law perspective, and suggests that this approach might offer a more comprehensive and feasible means of addressing environmental destruction, particularly in the context of armed conflicts.²

² Orsolya Johanna Sziebig, “The Crime of Ecocide through Human Rights Approach: The ‘Universal’ Right to a Healthy Environment as a Driving Force Calling for Ecocide Legislation,” *Acta Humana* 12, no. 2 (June 27, 2024): 75–89, <https://doi.org/10.32566/ah.2024.2.5>.

Adam Branch and Liana Minkova, in their article "Ecocide, the Anthropocene, and the International Criminal Court,"³ argue that designating ecocide as a crime under the ICC Rome Statute faces major conceptual and practical hurdles. Specially, they highlight the difficulties in defining and prosecuting ecocide due to the complexities of translating environmental damage into international criminal law, the ecological and social variety of the Anthropocene, and the inherent limitations of the ICC. Consequently, the paper argues that while criminalizing ecocide is a commendable goal, the practical challenges are significant, and the ICC's capacity to address the most severe forms of environmental harm is questionable. Therefore, it suggests that a fundamental rethink of international law and its institutions will allow for effective responses to global environmental crises.

In their research, Filippou Proedrou and Maria Purnara also examine the conceptualization of climate change through the lens of ecocide, a term referring to the widespread and deliberate devastation of the natural environment.⁴ By framing climate change as ecocide, the article examines how this perspective can influence and reshape climate policies and legal frameworks. The discussion likely focuses on the potential benefits and challenges of adopting this framework, such as raising awareness, mobilizing action, and enhancing accountability for environmental harm. It explores how recognizing climate change as an act of ecocide might affect policy decisions, advocacy strategies, and international cooperation to combat it and protect ecosystems. What sets these three writings apart from this article is that this article attempts to analyze whether ecocide could become the future of *jus cogens* by examining the criteria for *jus cogens*' drawing on expert opinions.

Additionally, this article delves into the possibility of holding states accountable for ecocide. The purpose of this study is to provide

³ Adam Branch and Liana Minkova, "Ecocide, the Anthropocene, and the International Criminal Court," *Ethics & International Affairs* 37, no. 1 (January 2023): 51–79, <https://doi.org/10.1017/S0892679423000059>.

⁴ Filippou Proedrou and Maria Purnara, "Exploring Representations of Climate Change as Ecocide: Implications for Climate Policy," *Climate Policy*, June 28, 2024, 1–14, <https://doi.org/10.1080/14693062.2024.2368859>.

a summary of the legal framework that could be implemented and the possibility that states will be held accountable for ecocide. Besides using an international law perspective to analyze the issues discussed in this article, it also employs a national law perspective as an alternative for holding states accountable for acts of ecocide.

This conceptual paper analyzes the importance of ecocide today through the lens of a clearly defined concept. This work will examine three questions: First, can climate change–related ecocide be conceptually and legally framed as a violation of fundamental international norms, including its possible recognition as a *jus cogens* norm? Second, what requirements should be followed to hold States accountable for the onset of ecocide related to climate change? Third, what legal and institutional frameworks can address State accountability for climate change-related ecocide? The study aims to promote just responsibility for both developed and developing states, which must share equal responsibility in this context.

This study firmly adopts a normative-conceptual legal research methodology with a prescriptive orientation. Its purpose extends beyond merely describing existing legal frameworks; it actively constructs and evaluates normative arguments concerning the legal recognition of ecocide related to climate change as a basis for State responsibility under international law. By employing both doctrinal and comparative legal approaches, the research rigorously analyzes primary sources, including the Rome Statute, the Draft Articles on Responsibility of States for Internationally Wrongful Acts, and essential international environmental conventions. The primary legal sources examined include treaties, customary international law, case law from the International Court of Justice (ICJ) and the International Criminal Court (ICC), and recent UN General Assembly resolutions, notably A/77/L.58.

This study examines secondary sources, including academic literature, expert opinions, and analytical reports from international organizations such as the IPCC and Europol, to support the doctrinal analysis and identify the evolving interpretation of ecocide in the context of climate justice. Additionally, the research engages with the

jus cogens doctrine to evaluate whether ecocide qualifies as a peremptory norm in international law. Using a statute-based and conceptual framework, the study critically examines the attribution of international responsibility to States for actions or omissions that result in large-scale environmental harm. The objective is to construct a theoretical and normative understanding of ecocide as a potential fifth international crime and to propose an integrated jurisdictional role between the ICC and the ICJ in adjudicating such cases.

Result & Discussion

A. Normative Implications Of Climate Change-Related Ecocide Under International Law

1. Climate Change-Related Ecocide: Conceptual Foundations And Normative Relevance

Climate change refers to substantial alterations in global temperatures and weather patterns. Although climate change is natural, scientific data demonstrate that human activities, such as fossil fuel combustion and deforestation, have accelerated its progression. The combustion of fossil fuels, deforestation, and industrial activities have elevated atmospheric greenhouse gas concentrations (GHGs), especially carbon dioxide (CO₂)⁵. These gases trap heat, leading to global warming and subsequent climate alterations. The Intergovernmental Panel on Climate Change reports have documented negative consequences, including rising sea levels, severe weather events, and biodiversity loss, highlighting the critical need for mitigation and adaptation strategies.⁶ In response to the growing environmental crises, the concept of ecocide has emerged to address severe environmental destruction.

⁵ Branch and Minkova, "Ecocide, the Anthropocene, and the International Criminal Court."

⁶ Intergovernmental Panel On Climate Change (Ipcc), *Climate Change 2021 – The Physical Science Basis: Working Group I Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, 1st ed. (Cambridge University Press, 2023), <https://doi.org/10.1017/9781009157896>.

Environmental activist Richard A. Falk first coined the term ecocide in 1970. Ecocide refers to the significant damage, destruction, or loss of the ecosystem within a specific territory, substantially reducing the residents' peaceful enjoyment of such an area.⁷ The idea gained traction after increasing environmental degradation and recognizing the need for robust legal frameworks to protect the environment. Polly Higgins, a leading proponent for the acknowledgement of ecocide as an International Crime, characterized it as the "extensive damage, destruction to or loss of ecosystems 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."⁸

Given the profound and far-reaching impacts of climate change, there is a growing consensus among legal experts that climate change-related activities should be encompassed within the definition of ecocide. Burning fossil fuels, deforestation, and industrial pollution significantly contribute to climate change and result in extensive ecosystem damage. By recognizing climate change as a form of ecocide, international law can hold states and corporations responsible for actions that significantly harm the environment and, by extension, human rights. This alignment can drive more decisive climate action and ensure that environmental protection is treated with the urgency it deserves.

2. Ecocide And The Debate On Its Recognition As A *Jus Cogens* Norm

The concept of ecocide has garnered increasing attention in recent years, prompting several legal experts to argue that it might be recognized as a potential for new *jus cogens* norm. *Jus cogens* standards are considered peremptory principles in international law, which take precedence over all other treaties and customary rules. These norms are enshrined in Article 53 of the Vienna Convention on

⁷ Richard A. Falk, "Environmental Warfare and Ecocide — Facts, Appraisal, and Proposals," *Bulletin of Peace Proposals* 4, no. 1 (1973): 80–96, <https://www.jstor.org/stable/44480206>.

⁸ Anja Gauger et al., "The Ecocide Project 'Ecocide Is the Missing 5th Crime Against Peace'" (London: Human Rights Consortium, University of London, 2012).

the Law of Treaties (VCLT), which mentions that a *jus cogens* norm is "a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character."⁹

Rozakis describes *jus cogens*' concept as "a theoretical inference whose function is discernible through the legal norms bearing its peculiar traits."¹⁰ In contrast to the establishment of customary international law, which requires a norm to be "generally practiced," Article 53 of the Vienna Convention of 1969 stipulates that a peremptory norm is established when the norm is "accepted and recognized by the international community of States as a whole." This requirement indicates that for a norm to be considered peremptory, or *jus cogens*, it must be accepted by a "vast majority of states". Although this emphasizes the need for widespread acceptance, establishing peremptory norms remains challenging due to the difficulty of measuring international recognition and acceptance.

Alston also notes that states encounter challenges in determining whether a norm is peremptory, as much *jus cogens* norms are "rules of abstention," in which states refrain from specific actions. It remains an open question whether states have acknowledged and accepted a norm as *jus cogens* due to this abstention. Alston emphasizes that the motivations and intentions behind a state's decision to abstain must be taken into account. He further suggests that *opinio juris* can be crucial in recognizing peremptory norms.¹¹ Concerning abstention, in the case of Military and Paramilitary Activities in and against Nicaragua, the International Court of Justice stated that, "In international law, there are no rules, other than such rules as may be accepted by the state concerned, by treaty or otherwise, whereby the level of armaments

⁹ United Nation, "Vienna Convention on the Law of Treaties," United Nations § (1969).

¹⁰ Sefriani Sefriani, *Hukum Internasional Suatu Pengantar*, 2nd ed. (Jakarta: PT RajaGrafindo Persada, 2010).

¹¹ Bruno Simma and Philip Alston, "The Sources of Human Rights Law : Custom, Jus Cogens, and General Principles," *The Australian Year Book of International Law Online* 12, no. 1 (January 1, 1992), <https://doi.org/10.1163/26660229-012-01-900000007>.

of a sovereign state can be limited, and this principle is valid for all states without exceptions."¹² Despite ongoing debates, particularly among positivist scholars, there is a growing recognition of the need to limit state freedom of action. Contemporary international legal instruments often refer to the common interest of humanity and the common concern of humankind to establish international legal policies. Including ecocide in this category requires a consensus that massive-scale environmental destruction is universally unacceptable and equally reprehensible.

Several environmentalists, activists, and international law experts have argued for the inclusion of ecocide as a new *jus cogens* norm. Palarczyk argues that the severe and irreversible environmental damage caused by ecocide necessitates a strong international response. This widespread, long-term damage, ecocide meets the criteria of gravity and moral outrage that characterizes *jus cogens* norms.¹³ Philippe Sands, a prominent expert in international law, emphasizes that ecocide critically threatens essential human rights, including the right to a healthy environment, life, and well-being.¹⁴ This interrelation supports the argument for elevating ecocide to the status of a *jus cogens* norm, as it is vital for preserving these human rights. On a related note, Kadelbach points out that "preventing severe and enduring environmental harm" is often cited as an example of a principle recognized as both *erga omnes* and *jus cogens*. Nevertheless, Kadelbach does not elaborate on which actions qualify as environmental protection (e.g., pollution control or preventing violations of environmental rights), how to define severity (e.g., what constitutes "serious" and "prolonged" harm), or the areas where such norms would apply (e.g., within countries, in shared

¹² Sefriani, *Hukum Internasional Suatu Pengantar*.

¹³ Danuta Palarczyk, "Ecocide Before the International Criminal Court: Simplicity Is Better Than an Elaborate Embellishment," *Criminal Law Forum* 34, no. 2 (June 1, 2023): 147–207, <https://doi.org/10.1007/s10609-023-09453-z>.

¹⁴ Donna Minha, "The Proposed Definition of the Crime of Ecocide: An Important Step Forward, but Can Our Planet Wait?," *EJIL: Talk!* (blog), July 1, 2021, <https://www.ejiltalk.org/the-proposed-definition-of-the-crime-of-ecocide-an-important-step-forward-but-can-our-planet-wait/>.

global spaces, or across borders).¹⁵ Whiteman, in a comparably concise and ambiguous manner, offers a suggested catalog of peremptory norms that she argues must be "universally prohibited under international law." Her list, though occasionally unconventional, includes environmental issues such as the intentional release of pathogens to harm or destroy human life, the contamination of natural resources like air, water, or land to render them harmful or unusable for people, and hostile weather modification, apparently excluding the non-aggressive industrial emissions driving climate change.¹⁶

Louis J. Kotzé suggests that the most practical approach to incorporating environmental protection into *jus cogens* norms is to broaden the interpretation of existing *jus cogens* norms.¹⁷ He suggests that established *jus cogens* norms—such as the prohibitions on genocide, slavery, and torture—can also be applied to protect environmental interests. By building on these widely accepted norms, it is possible to enhance legal protections for the environment without creating entirely new environmental *jus cogens* norms.

This approach circumvents the need to establish explicit environmental *jus cogens* norms by utilizing those already recognized and widely respected in international law. By utilizing these established peremptory norms, we can ensure robust protection of environmental issues while demonstrating that international law can adapt to emerging environmental challenges. Creating a specific *jus cogens* norm to prohibit ecocide or environmental genocide is unlikely in the near term due to the complexities involved in achieving global agreement on its definition and implementation. However, we can enhance environmental protection by interpreting acts of

¹⁵ Stefan Kadelbach, "Chapter II. Jus Cogens, Obligations Erga Omnes and Other Rules - the Identification of Fundamental Norms" (Brill, 2006), https://brill.com/display/book/edcoll/9789047417828/Bej.9789004149816.i-472_003.xml.

¹⁶ Marjorie M Whiteman, "Jus Cogens in International Law, with a Projected List," *Georgia Journal of International and Comparative Law* 7 (1977): 609–26.

¹⁷ Louis Kotzé, "Constitutional Conversations in the Anthropocene: In Search of Environmental Jus Cogens Norms," in *Netherland Yearbook of International Law* (Springer, 2016), 241–71, https://doi.org/10.1007/978-94-6265-114-2_9.

genocide through an environmental perspective, thereby extending existing norms.

Targeting the environmental conditions essential for a population's survival, with the intention to harm or eliminate that group, could be considered a violation of the prohibition against genocide. By destroying the environment essential to life, such actions may be perceived as "deliberately creating conditions of life intended to bring about the physical destruction" of a community.

This approach aligns with Article II of the Convention on the Prevention and Punishment of the Crime of Genocide. According to this article, which states that genocide encompasses acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. This includes deliberately inflicting conditions of life designed to bring about the group's physical destruction. Consequently, the intentional destruction of the environment that threatens a population's existence can be considered a form of genocide. This interpretation broadens international legal protections against actions that harm the environment and jeopardize human existence.

B. State Responsibility For Ecocide

1. Conceptualising Ecocide Within International Criminal And Environmental Law

The idea of criminal accountability for states remains underdeveloped. Academic discussions indicate that states may bear criminal responsibility for command responsibility and international crimes, but this liability is largely confined to the realm of international law. As the primary legal entities within the international legal system, states' responsibilities have been a key focus of scholarly and legal discourse. To address this, the International Law Commission (ILC) undertook an analysis and codification of state responsibility, culminating in the 2001 adoption of the Draft Articles on the Responsibility of States for Internationally Wrongful Acts.

The discussion surrounding state responsibility for ecocide or green crime needs to clarify the characteristics of these crimes and determine whether they can be categorized as international crimes. Ecocide in literature has remained debatable. There are two primary perspectives on ecocide; some consider ecocide to be equivalent to genocide, while others argue that it is a distinct crime that should be recognized as the 5th international crime in the Rome Statute. Martin Crook, Damien Short, and Nigel South call ecocide an ecologically induced Genocide.¹⁸ Martin Crook, Damien Short, and Nigel South cite Dunlap's argument that Indigenous peoples and their lands are inseparably connected. Disrupting this relationship through actions such as the destruction of animals, fish, or crops threatens their survival, undermines their way of life, and weakens their capacity to resist. Such actions can be interpreted as counterinsurgency strategies that involve starvation and may even contribute to broader extermination efforts. Del Olmo categorizes ecocide as eco-bio-genocide, while green criminology highlights its significance in environmental discourse. The concept of ecocide has emerged as a cautionary term, reflecting a growing awareness of the ecologically destructive behaviors exhibited by many developed and developing nations in recent history.¹⁹

Other scholars, White and Heckenberg, have expanded on the concepts of environmental justice, ecological justice, and species justice. At the same time, Higgins and colleagues emphasize that climate change and the potential harm to the Earth demand significant reforms in human legal institutions. Ultimately, Green criminology advocates for effective environmental justice systems and proposes new methods to combat ecocidal trends in international law.²⁰ According to J.M. Vorster, the history of ecocide consists of three phases. There has been a development in ecocide, namely modern ecocide. In modern ecocide, the trends of globalism have

¹⁸ Martin Crook, Damien Short, and Nigel South, "Ecocide, Genocide, Capitalism and Colonialism: Consequences for Indigenous Peoples and Glocal Ecosystems Environments," *Theoretical Criminology* 22, no. 3 (2018): 298–317, <https://doi.org/10.1177/1362480618787176>.

¹⁹ Kotzé, "Constitutional Conversations in the Anthropocene."

²⁰ Crook, Short, and South, "Ecocide, Genocide, Capitalism and Colonialism."

become a contributing factor. For starters, mega-corporations have grown so large that their international revenues frequently exceed the GDPs of entire countries, making it nearly impossible for governments to regulate them effectively. It becomes difficult to enforce environmental rules on these enterprises. Second, globalization has been shown to increase poverty, which leads people to destroy ecosystems to meet their needs. Third, globalism contributes to the emergence of nationalist, fundamentalist, and paramilitary movements. As these groups gain access to nuclear, chemical, and biological weapons, they pose serious threats to ecosystems.²¹

2. Ecocide, Environmental Crime, And The Core Elements Of Criminal Responsibility

All issues related to ecocrime and ecocide involve committing environmental crime. Three traditional core concepts of criminal law can be constructed into Environmental Crime, as follows:

1. Harm
2. Culpability
3. Deterrence²²

Harm is a core value in criminal law. Harm is vital to criminal law theory. Even actions that do not cause actual harm may be penalized. That is especially true for Conduct that generates an unjustified risk of harm, and this notion is included in the legislation of inchoate crimes such as attempts and conspiracy. It is also ingrained in specialized criminal statutes, such as those punishing reckless endangerment, which have close equivalents in some regulations. Although injury or severe injury is not an explicit element of a crime, if the actor's actions cause concrete harm, the presence of the harm may be crucial in establishing the gravity of the violation or the appropriate range of punishment. Harm is a requisite component of a crime that requires substantiation. In the context of culpability, it

²¹ J. M. Vorster, "Ecocide, the Integrity of Creation and the Rights of the next Generation," *Verbum et Ecclesia* 26, no. 3 (October 3, 2005): 867–90, <https://doi.org/10.4102/ve.v26i3.255>.

²² Kathleen F. Brickey, *Environmental Crimes: Law, Policy and Prosecution* (Aspen Publisher, 2008).

is understood that liability for causing harm is insufficient to establish criminal liability. Instead, criminal law demands a measure of blameworthiness, which is heavily influenced by the actor's mental State, one who takes a socially unacceptable risk of serious injury. The mental state requirement encompasses the subject's intention or knowledge. The employee is unlikely to face criminal charges because the discharge was inadvertent. If the statute requires negligence, blameworthiness would be whether he should have realized that the wrong person was turning the valve.

The decision to criminalize or enforce legal norms invokes the law's moral authority in its most potent manifestation, the ability to punish. The ability of a state to impose punishment for blameworthy behavior offers substantial incentives to members of the regulated community to comply with the law. Individuals are likely to refrain from offending if the predicted punishment outweighs the anticipated advantages. For organizations, the punishment must be significant enough not to be considered an additional business expense. In the context of environmental regulation, compliance costs might quickly exceed the standard criminal fine. In other words, the threat of punishment can effectively deter noncompliance only if the maximum allowable fine exceeds the cost of compliance.

In environmental crime, how green criminology can be used to understand the dangers of environmental crime today needs to be reviewed. The issue of environmental crime is inseparable from environmental degradation and the harm it causes, as well as the victims of such destruction. Destruction is conceptualized as being about humans, the environment in general, and non-animal animals. The complexity of defining environmental damage is also reflected in the discussion of its types. The categorization of environmental damage varies across the different ways environmental crimes are conceptualized and categorized. The nature and dynamics of environmental destruction, as well as discussions of definitions and rationales, continue to evolve. While these discussions are crucial to informing our current thinking on environmental issues, the work done in this area also conveys a sense of urgency and priority *vis-à-*

vis the prevention of destruction. As it is known, the environment consists of air, land, and oceans. The environment refers to a place where humans may be present or pass through. Humans are often seen as distinct and separate from human settlements. It requires a level of understanding that involves reflecting on humans' impact on the environment.

3. Globalisation, Ecoviolence, Greenflation And Transboundary Environmental Harm

In the context of human relations with the environment, many activities human conduct harm to the environment. It includes greenflation, the result of the relationship between human and business activity, aimed at a country's economic dignity among other countries. Nigel South noted that over the last few decades, knowledge of environmental harm's financial and personal costs has grown, reaching people who are generally not environmentally green. In this perspective, there are global challenges posed by Earth and everything related to it, which people see as capable of significantly disrupting social stability, destabilizing business supply chains, threatening food and energy production, and generally exacerbating human suffering.

From this perspective, it can be said that there is environmental violence. Laura Westra uses the term "ecoviolence" to ask how it can be turned into an ecocrime. Ecoviolence appears to define a type of attack that falls somewhere between a violation of humanitarian rules, which are acceptable for the Conduct of War, and a violation of human rights laws, which apply to types of violence committed during peacetime. As a kind of systemic violence, ecoviolence falls under the category of humanitarian law as a means of protecting human rights in a context of violent conflict.²³ Numerous categories and types of violence distinguish each individual and institutional violence, and how can they be differentiated? It also needs to differentiate institutional violence from the more basic systemic violence and

²³ Laura Westra, *Ecoviolence and the Law: Supranational Normative Foundation of Ecocrime*, First Edition (Leiden Boston: Martinus Nijhoff, 2004).

systemic oppression. Violence will include physical and biological violence against organisms and natural systems.²⁴ It requires the involvement of national legal institutions and instruments, as well as criticism and examination, until it has a regulatory framework that can act locally while thinking globally.

As discussed, the idea of "green" must be integrated into the broader perspective of human activities, including the Green. This could lead to a potential side effect known as greenflation. It is essential that all activities focus on consolidating demand for sustainable raw materials, such as electric vehicles and renewable energy power plants. It is causing prices to skyrocket and perhaps contributing to economic inflation. It will also create a massive divide between developed, developing, and underdeveloped countries. In this context, the high demand for green products from developed to developing countries raises questions about ecoviolence itself. Greenflation is a term that combines 'green' and 'inflation'. It broadly refers to the inflationary pressures that may result from transitioning to sustainable energy production.²⁵ Specifically, greenflation refers to the significant increase in the costs of materials and minerals utilized in renewable technologies due to the shift towards a green economy.²⁶ This phenomenon is often linked to public and corporate policies implemented during the green transition.²⁷ Greenflation can also denote rising prices for environmentally friendly products, stemming from high demand coupled with a limited supply of raw materials. The energy revolution has contributed in inflation, as certain minerals essential for developing "net zero" industries are in limited quantities, and their extraction poses challenges despite significant demand. For example, lithium is one of the key materials involved in this process. . The International Energy Agency projects that the total demand for minerals required for low-carbon technologies will increase fourfold

²⁴ Westra.

²⁵ Conny Olovsson and David Vestin, "Greenflation?," SVERIGES RIKSBANK WORKING PAPER SERIES (Stockholm, May 2023).

²⁶ Shreya Verma and Pragita Gupta, "India as Green Economy," 2022, <https://www.aranca.com/>.

²⁷ CNBC Indonesia Research, "Lengkap! Pengertian Greenflation, Penyebab dan Contohnya," CNBC Indonesia, 2024, <https://www.cnbcindonesia.com/research/20240122083415-128-507842/lengkap-pengertian-greenflation-penyebab-dan-contohnya>.

by 2040, assuming the Paris Agreement goals are achieved.²⁸ However, this rise in demand, often referred to as "greenflation," may lead to environmental challenges, including potential damage to biodiversity.

The international obligation must be followed by all groups of countries. Developed countries often position themselves as victims and developing countries may be seen as the perpetrators required to align with international trade demands and prioritize environmental sustainability. From the perspective of International State Responsibility, developed and developing countries have obligations that may conflict with each other. The result of an ecocrime should be viewed as an international responsibility.

4. From Environmental Crime To Ecocide: Can A State Be The Actor In Ecocide?

Based on the explanation above, environmental issues, crime problems, and the impact caused by these crime problems. The issue is becoming increasingly significant as global human development advances. One major problem is climate change. In this context, Europol explains that climate change is a push-and-pull factor for organized crime. As natural resources become scarce, organized crime seeks to benefit from future distribution. The growth of renewable energy will continue to attract investment from both the private and public sectors, making it increasingly attractive to criminals. As biodiversity declines, more animal species will face extinction and become targets for wildlife trafficking.²⁹ Based on the report, Europol states that environmental crises significantly impact society. Despite increased cross-border investigations into environmental crime, law enforcement agencies struggle to link incidents to organized crime.³⁰ It is understood that many environmental criminals are opportunistic legal business owners or

²⁸ Research.

²⁹ Europol, "Environmental Crime in the Age of Climate Change: 2022 Threat Assessment" (Europol, 2022), <https://www.europol.europa.eu/publications-events/publications/environmental-crime-in-age-of-climate-change-2022-threat-assessment>.

³⁰ Europol.

operators who choose to maximize their profit by engaging in illegal activities. These criminal networks primarily consist of low-level employees who report to a small group of leaders and are often distanced from the actual illegal activities.

Ecocrime ultimately leads to ecocide. Most of the existing literature on genocide fails to examine the connection between genocide and the degradation of nonhuman nature, a phenomenon known as ecocide. Ecocide represents a significant human rights issue.³¹ In proposing an amendment to the Rome Statute to promote ecocide as the fifth crime, the Independent Expert Panel for the Legal Definition of Ecocide highlighted its concern in its additional preamble statement. They addressed the daily threats to the environment posed by significant destruction and deterioration, which severely jeopardize both natural and human systems worldwide. It indicates that ecocide has profound implications for the environment. In its article, ecocide is defined as unlawful or reckless acts committed with the awareness that there is a substantial likelihood of causing severe and either widespread or long-term damage to the environment.³² To address the issue of ecocide, it must align with the requirements of international criminal law as outlined in the Rome Statute. According to Article 30, the mental element involved in these crimes must include intention and knowledge. Intention can be established if :

- a. the offender actively engages in the Conduct;
- b. the offender causes consequences or is aware that those consequences are likely to occur in the ordinary course of events. The mental element of knowledge refers to the awareness that a specific circumstance or consequence will occur as a normal result of the actions taken.

The Independent Expert Panel for the Legal Definition of Ecocide has proposed defining this crime as involving unlawful or

³¹ Lauren Eichler, "Ecocide Is Genocide: Decolonizing the Definition of Genocide," *Genocide Studies and Prevention: An International Journal* 14, no. 2 (September 4, 2020), <https://doi.org/10.5038/1911-9933.14.2.1720>.

³² Stop Ecocide International, "Legal Definition of Ecocide Drafted by Independent Expert Panel," Stop Ecocide International, June 2021, <https://www.stopecocide.earth/legal-definition>.

wanton acts. "Unlawful" refers to actions that cause environmental harm and are already prohibited by law. The panel also considered narrowing the definition of "unlawful" to include only acts prohibited under international law. Additionally, ecocide is characterized by "wanton" acts, which means actions taken with reckless disregard for harm that is excessively disproportionate to the expected social and economic benefits. The panel references the term "wanton" as used in war crimes, particularly in Article 8(2)(a)(iv) of the Rome Statute, which addresses unlawful and excessive destruction of property not justified by military necessity. Regarding this element, the explanatory note on elements of crime by the International Criminal Court further elaborates on these definitions :

“Element of crime consists of:

- 1. The perpetrator destroyed or appropriated specific property;*
- 2. The destruction or appropriation was not justified by military necessity;*
- 3. The destruction or appropriation was extensive and carried out wantonly;*
- 4. Such property was protected under one or more of the Geneva Conventions of 1949;*
- 5. The perpetrator was aware of the factual circumstances that established that protected status;*
- 6. The Conduct took place in the context of and was associated with an international armed conflict;*
- 7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.”*

Compared to Article 8 (2) a (iv), the wanton element in ecocide has a different meaning. The reasons are as follows:

- The definition of ecocide provided by the Independent Expert panel uses “wanton” as an alternative to unlawful elements. This term indicates that the crime of ecocide can be committed through reckless actions. The “wanton” element is attached to the action. Article 8(2) (a) (iv) puts “wanton” as an element of the crime alongside “unlawful”. This suggests that the actions must demonstrate a

conscious disregard for the extensive destruction or appropriation that is carried out recklessly

- In ecocide, proving that severe nonhuman harm is recklessly caused by humans is challenging.

The proposal put forth by independent experts stated that acts of genocide considered lawful under national law cannot justify actions that are prohibited under international law. They further argued that violations of national law, particularly in domestic criminal contexts, should be incorporated into the definition under international law.³³ In the context of ecocide, it is crucial to consider that national domestic regulation explicitly prohibits ecocide within the relevant jurisdiction's legislation, as ecocide is not truly an "international crime" characteristic. Proving that environmental damage is severe, widespread, and long-lasting is a significant challenge. Under international criminal law, environmental regulations must allow for legitimate development. Unfortunately, to promote ecocide as the fifth crime under the Rome Statute, it needs to be more precisely proven that this ecocide must be treated as an International Crime rather than merely an International Environmental Crime characteristic. It is crucial to demonstrate that environmental crime can endanger human life and future generation. The impact of environmental crime often does not manifest immediately, making it difficult to provide evidence of its widespread impact. As understood, the issue of environmental crime, which may include climate change, ecoviolence, and ecocide, must be carefully considered, including who can be a perpetrator. It can be an individual, an organization (such as a criminal network), or even a State as an entity. One must understand how the crime can occur to describe how complex environmental crime, or even ecocide, is. Europol identifies three key pillars that support the infrastructure used by criminal networks in their operations.³⁴

³³ International.

³⁴ Europol, "Environmental Crime in the Age of Climate Change."



The process starts when traffickers use bogus certificates, forged bills of lading, fake analysis reports, and counterfeit authorization to transport waste and endangered animals across continents, bypassing customs inspections and environmental protocols. The first step shall be for traffickers to use illegal documents. The process continues with environmental criminals exploiting differences in product classification systems, the partial implementation of international protocols, limited data exchange among authorities, and inconsistent prosecution rules across jurisdictions. At this stage, regulations and enforcement agents are responsible. The final step occurs when environmental criminals resort to corruption at various levels, targeting municipal officials, accreditation agencies, and border customs agents to facilitate cross-border activities. These criminals integrate their operations into a broader criminal network. Environmental criminals employ more corrupt methods than other organized crime groups to carry out nefarious activities.³⁵

The complexity of the environmental crime process shows the difficulty of distinguishing the real actors involved. Then the question is: Can a state become a perpetrator, and for whom can the law punish? It needs to understand the requirement to construct a state to be responsible. A country may be deemed responsible if it fails to fulfill its obligations under international law. However, determining whether a state has ignored, neglected, or failed to meet its commitments can be challenging. When assessing a state's conduct of wrongdoing in the environment, it is crucial to consider its ability

³⁵ Europol.

to judge international law and to distinguish between state activity as public (*iure imperium*) or private (*iure gestiones*).³⁶ The concept of state responsibility emerged to distinguish between the State's public and civil activities. The state, in its capacity, can do both private and public activities.

During its fifty-third session, the U.N. Commission developed a draft on the *Responsibility of States for Internationally Wrongful Acts*. This draft outlines the principles for determining when a state is internationally responsible for its actions. Under Article 1, if a state commits an internationally wrongful act, it is accountable under international law. Article 2 outlines the specific conditions for an act to be deemed internationally wrongful. First, the conduct whether it is an action or a failure to act—must be attributable to the state, meaning that the state is legally responsible for it under international law. Second, conduct must breach an international obligation to which the state is bound. In other words, the state has failed to uphold its commitments under international law, thereby incurring responsibility for the wrongful act.

From the elements above, it is understandable that the categorization of State action as wrongdoing, which imposes responsibility, is inherent to the State under international law. It also takes responsibility when the State violates its international obligations (vide Article 3). The categorization is not affected by the same act being deemed lawful under internal law. There is a distinction between international law governing state obligations and domestic law that governs them.

The elements of attribution have become essential for assessing whether a wrongful state action was committed in a public or a civil capacity. One of the purposes of the U.N. convention draft is to highlight the State's responsibility for actions or omissions in the public sphere.

³⁶ Fatahilah, "PERTANGGUNG JAWABAN NEGARA TERHADAP TINDAK PIDANA INTERNASIONAL (STATE LIABILITY FOR INTERNATIONAL CRIMINAL ACTS)," *Jurnal Ilmu Hukum Reusam* 9, no. 2 (2021).

Here is the explanation regarding the attribution of State:

The Functioning of State Organs (Art. 4)	<p>- Under international law, the actions of any State organ are deemed acts of the State, irrespective of its function (legislative, executive, judicial), its position within the State's organization, or its role as an organ of the Central Government or a territorial unit;</p> <p>- An organ encompasses any individual or entity recognized as such under the State's internal law.</p>
Conduct of individuals or entities exercising elements of governmental authority (Art. 5)	Under international law, a person or institution authorized by the State's law to exercise government authority is regarded as an act of the State, even if they are not an organ under Article 4.
Conduct of organs left at the disposal of another state (Art. 6)	Under international law, an organ assigned to another State is considered an action of the original State if it operates within the parameters of that State's governmental authority.
Overstepping of authority or violation of directives (Art. 7)	Under international law, the actions of a state's organ, individual, or entity authorized to exercise governmental authority are regarded as acts of the State, even if they exceed their designated authority or instructions.
Conduct regulated or overseen by a State (Art. 8)	International law considers a person's or group's actions as an act of a State if they are acting on instructions, direction, or control from that State.
Actions undertaken in the absence or failure of official authorities (Art. 9)	Under international law, a person or group can be considered an act of a state if they exercise governmental authority without

		official authority and in circumstances that require it.
Execution of an insurrectionary alternative movement (Art. 10)	or an or movement	<ol style="list-style-type: none"> 1. Under international law, an insurgency that leads to a new government is considered a state's action. 2. Under international law, establishing a new state in a section of a pre-existing state's territory or under its administration is considered an act of the new State. It includes insurrectional movements. 3. This article does not affect the attribution to a State of any conduct relating to the movement, which is deemed an act of the State under paragraphs 4-9.
Conduct recognized and embraced by a State as its own (Art. 11)		If a State accepts and adopts action that is not attributable to them, it is considered their act under international law.

Based on the criteria defined by the U.N Commission above, in the context of ecocide or environmental crime, it is essential first to define what ecocide is and who the perpetrator of that crime is. It is also essential to define which attributes of the State give authority.

C. Institutional Pathways For Adjudicating Ecocide

Based on the previous explanation, the problem of ecocide is severe rather than merely an environmental threat. A precise formulation of ecocide needs to be uplifted into an international crime.

The issue of environmental crime, including ecocrime and ecocide, poses significant challenges, particularly concerning the role of states in their occurrence. A key development in addressing climate change is the U.N. General Assembly's Resolution A/77/L.58, which urges countries to take immediate action. This resolution emphasizes the unprecedented scale of the threat posed by climate change the

well-being of both present and future generations, and underscores the need for urgent responses. It calls for coordinated efforts from all parties to effectively tackle this issue. Additionally, the U.N. General Assembly expresses concern about the ongoing increase in greenhouse gas emissions, despite the vulnerability of all nations, particularly developing countries, to the detrimental effects of climate change. It points out the limited capacities of least developed and small island developing states. The U.N. also acknowledges the scientific consensus, as outlined by the Intergovernmental Panel on Climate Change (IPCC), that human activities, especially the emission of greenhouse gases, have been the primary cause of global warming since the mid-20th century. This has resulted in more frequent and severe extreme weather events, causing significant damage to both the natural environment and human populations.

Based on the explanation, the U.N General Assembly seeks the response of the International Court of Justice on the following questions:

- a. What are the obligations of States under international law to ensure the protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases for states and for both present and future generations?
- b. What legal consequences do states face for causing significant harm to the climate system and other parts of the environment due to their actions and omissions?
 - i. States, tiny island developing countries, which, due to their geographical circumstances and level of development, are particularly affected by or are particularly vulnerable to the adverse effects of climate change?
 - ii. Are the people and individuals of both present and future generations impacted by the adverse effects of climate change?

These questions were based on the principles of preventing significant environmental harm and safeguarding and maintaining the marine ecosystem. The U.N. General Assembly resolution

addresses the responsibility of states regarding the enormous environmental issues and their effects on harm and damage. Ian Brownlie notes that the question of responsibility primarily revolves around the enforcement or restoration of customary international conduct rules. However, the issue is not just illegality; but it also involves specific harm to the legal interests of the claimant state, which gives rise to a claim for reparation – usually monetary compensation or, at least, the reservation of the right to such a claim. The claim may not be made, but the right to make one will be reserved in the notice of protest. The approach is comparable to the imposition of civil liability in domestic legal systems.³⁷ Further, Article 19, regarding international crimes and international delicts, mentions that:

1. An act by a State which constitutes a breach of an international obligation is considered internationally wrongful, regardless of the type of the obligation breached.
2. An internationally wrongful act that results from the breach by a state of an international obligation so essential for the protection of fundamental interests of the international community that its breach is recognized as a crime by that community as a whole constitutes an international crime.

Thus, the responsibility of a State arises from the internationally wrongful act resulting from the breach of the State's international obligation. An international crime may arise from:

- A serious breach of an international obligation essential for maintaining international peace and security, such as the ban on aggression.;
- a significant violation of an international obligation is essential for protecting the right to self-determination of peoples, such as the prohibition against the establishment or maintenance of colonial domination;
- a large-scale violation of an international obligation essential for the protection of human rights, including those against slavery, genocide, and apartheid;

³⁷ Ian Brownlie and James Crawford, *Brownlie's Principles of Public International Law* (Oxford University Press, 2012).

- a major breach of an international obligation vital for safeguarding and maintaining the human environment, such as prohibiting extensive pollution of the atmosphere or the oceans.

A state can be held accountable for international obligations when there is a widespread and serious violation of human rights or environmental laws. There are two main legal mechanisms for addressing international crimes: the International Criminal Court (ICC), established by the Rome Statute, and the International Court of Justice (ICJ). Both institutions focus on human rights and humanitarian law. The ICJ, also known as the World Court, is the principal judicial body of the United Nations. It settles legal disputes between states and provides advisory opinions on legal questions raised by authorized U.N. bodies, including the General Assembly. When a case is brought before the ICJ, the applicant submits a written document outlining the court's jurisdiction and the reasons for the petition. The ICC, created by the Rome Statute, prosecutes individuals for four serious international crimes: genocide, crimes against humanity, war crimes, and the crime of aggression. It primarily addresses issues of human rights and humanitarian law. The ICC has jurisdiction over specific geographical and temporal matters and intervenes only when national courts cannot or will not prosecute. The ICC is independent of the U.N., and if a country is a U.N. member, the ICJ's jurisdiction applies. If the country is not a member, the ICC may take over the case.

The distinction between genocide at the ICJ and at the ICC can be examined from two perspectives. The ICJ has the authority to assess whether a state has committed genocide under the Genocide Convention. Genocide is defined by actions intended to partially or completely destroy a national, ethnic, racial, or religious group. The ICJ applies a stringent standard and has found it challenging to prove the intent to destroy a group in a specific location. Additionally, if an incident is classified as genocide under the Genocide Convention, the ICJ cannot address other matters, such as the legality of an invasion or the commission of war crimes and crimes against humanity. In contrast, the ICC prosecutes genocide as an individual crime, focusing on holding specific individuals accountable for their involvement in

such acts.³⁸ While the ICJ resolves disputes between States, the ICC prosecutes individuals for crimes. This raises the question: can ecocide be prosecuted in two different ways? Additionally, can the ICC and the ICJ collaborate and exercise jurisdiction over all countries?

In the context of ecocrime and/or ecocide, both individuals and States can be considered perpetrators. It must adhere to the principle of state responsibility under the International Wrongful Act. Under the ICJ, cases of ecocide can only be viewed as a dispute between States, not as crimes. While under the ICC, it should be viewed as a crime. If ecocide is to be recognized as the fifth international crime under the Rome Statute, it must conform to the crime's precise elements. An ecocide cannot be conducted through a wanton element of crime. It should be a commission. When individuals commit a wrongful acts, the ICC should prosecute. The individuals must understand that the action has caused an environmental impact. In terms of ecocide committed with intent, elements of the state (through its attribution of state conduct) must be proven. In this case, the State can be responsible if ecocide or ecocrime happens because of the corrupted behavior of procedures to protect the environment. Under the ICJ, a State may be requested to be held responsible as a perpetrator. The main requirement is that the elements of the crime of ecocide or ecocrime must be stringent and precise. The crime's impact should be considered as potential damage and loss.

Ecocide or ecocrime must be defined in the domestic laws and regulations of the respective countries to clarify when an individual can commit ecocrime and when a State can be the perpetrator of ecocrime or ecocide. Measurement of element crime and the proof process can be elevated to apply to ecocide as an international measure. Ecocide or ecocrime is entirely an international obligation of States. All countries must assume the same level of responsibility, since the environment is the responsibility of all human beings.

Conclusion

³⁸ Juliette McIntyre, "Distinguishing International Court of Justice from Criminal Court," Mirage News, August 1, 2024, <https://www.miragenews.com/distinguishing-international-court-of-justice-1152439/>.

According to the analysis above, both individuals and corporations, as well as States, may serve as perpetrators of ecocrime or ecocide. It must meet the State accountability criterion under the International Wrongful Act in cases where States are found responsible. Under the ICJ, it is solely regarded as a dispute between States rather than a criminal matter. Under the ICC, it should be regarded as a crime. Ecocide, which some scholars have promoted as the fifth international crime under the Rome Statute, must follow specific elements and be a commission. Individuals must understand the environmental impact of their actions to be prosecuted by the ICC. Additionally, evidence must be presented to prove state involvement, and the crime's impact should be considered as potential damage and loss. The assessment of elemental crime and the evidentiary method might be elevated for application to ecocide as an International Standard. Therefore, it needs to consider the possibility of collaboration between the ICC and the ICJ in cases where criminal law arises from the impact of climate change and is understood as ecocide or ecocrime. It must be explicitly defined in the domestic laws and regulations of various countries to delineate the circumstances under which a person may commit ecocrime and when a State may be deemed a perpetrator of ecocrime or ecocide. Recognizing ecocide or ecocrime must become a comprehensive international obligation for States. All nations must assert equal accountability, as environmental stewardship is a collective human obligation.

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