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## Ecocide: Wild Life Crime and the International Criminal Court

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### Abstract

The present study critically examines the concept of ecocide the large-scale destruction of the natural environment as an emerging international crime and explores its intersection with wildlife crime. As environmental degradation intensifies globally, scholars and jurists advocate for recognizing ecocide as the “fifth international crime” under the jurisdiction of the International Criminal Court (ICC), alongside genocide and crimes against humanity. The paper traces the historical evolution of the ecocide concept, from its early emergence during the Vietnam War era to its contemporary revival through initiatives by the Independent Expert Panel (2021) and the recent proposals by Pacific Island nations (2024-2025). It analyzes the legal, philosophical, and procedural complexities of incorporating ecocide into international criminal law, focusing particularly on wildlife crime as a paradigmatic instance of ecocidal conduct. Through comparative analysis of case laws, such as *Sansar Chand v. State of Rajasthan* (2010), and global instances of organized poaching and trafficking, the study demonstrates how systematic exploitation of species results in irreversible ecological harm, fulfilling the definitional elements of ecocide severe, widespread, and long-term damage to the environment. The research highlights the ICC’s evolving stance toward environmental accountability, the definitional and jurisdictional obstacles to prosecution, and the potential deterrent and normative impact of criminalizing ecocide. It concludes that recognizing ecocide and large-scale wildlife crimes as crimes against peace represents a transformative shift toward ecocentric justice affirming that destruction of nature is not merely a policy failure but a moral and legal atrocity against humanity and the planet itself.

**Keywords:** *Ecocide, Wildlife Crime, International Criminal Court (ICC), Environmental Law, Biodiversity Conservation, Rome Statute*

## Introduction

The mass destruction of the natural environment-ecocide, has become a burning idea in terms of the international law. With the growing pace of environmental crises, scholars and activists believe that the most egregious attempts against the environment should be considered illegal and classified as an international crime alongside such actions as genocide or crime against humanity. Among the most severe forms of ecocide wildlife crime: the systematic poaching and trafficking of wild species and destruction of wildlife at scale, threatening species and disrupting ecosystems. Such activities do not only push iconic animals to extinction, but also destabilize ecological balance and global biodiversity, with a trickle-down impact on climate and human livelihood. The International Criminal Court (ICC), the global court of the most heinous crimes, is currently restrictive in its jurisdiction in the destruction of the environment. Nevertheless, there is increasing calls to give the ICC a new mandate to prosecute so-called ecocide that would include gross crimes against wildlife that amount to mass ecological destruction [2]. In this paper, the author explores the historical development of the concept of ecocide in law, the connection between wildlife crime and ecocide, and the potential and obstacles of using the ICC to fight this type of crime. It covers both the world news and the Indian one, combining the theory of law, case examples of environmental damage, and their implications on nature and society. So, it examines the possibility of filling a major void in the application of environmental protection by criminalizing ecocide at the international level, and wildlife crime as a prime exemplar, and its compatibility with the current legal and new norms.

## Combation of Ecocide International Law Concept

Ecocide was initially popularized in the 1970s as a reaction to the destruction of the environment during a war, the destruction of Vietnamese ecosystems with Agent Orange herbicides caused people to call it an ecocide in progress. The initial efforts to criminalize gross damage to the environment were made in global conferences; one such example was then-PM Olof Palme, denouncing ecocide at the 1972 Stockholm

Conference. The notion of the large-scale destruction of the environment as a global crime gradually became popular during the last decades. The UN International Law Commission speculated about environmental atrocities in its draft Code of Crimes in the 1990s, and a proposal to include ecocide was discussed when drafting the Rome Statute of the ICC.<sup>1</sup> Finally, but most importantly, the Rome Statute did not include ecocide at the time when it was adopted in 1998. The Statute only explicitly criminalizes environmental crime in a limited sense: Article 8(2)(b)(iv) only criminalizes a harm to the natural environment during armed conflict, but only if it is so clearly excessive and intentional that it is associated with military objectives. This is a very high threshold and war time restriction which has so far seen the ICC never prosecute anybody through the sole reason of environmental damage.

Interest in ecocide as a crime of its own has come back in recent years due to frustration over the inability of current mechanisms to combat the destruction of the environment in the context of peacetime. In contrast to more customary types of international crimes, which are anthropocentric (concentrating on the harm inflicted on human beings), ecocide is an ecocentric model: the environment (as a whole, ecosystems, species, the planet, etc.) is perceived as a victim, and deserves protection by law in its own right. This is a paradigm shift on international criminal law. The advocates claim that enormous devastating acts against nature are a grave threat to peace and security just like genocide or war crimes because of its vast effects on human survival and world stability. They opine that criminalizing such activities to an international crime would create a potent deterrence mechanism and a moral border, and convince states and corporations against wanton environmental destruction.<sup>2</sup>

In June 2021 a step towards formalising the concept was made when an Independent Expert Panel of distinguished lawyers came up with a clear definition of ecocide that could be included in the jurisdiction of the ICC. The co-chairs, Philippe Sands QC and Judge Dior Fall Sow, defined the term ecocide as: unlawful or wanton acts done with the knowledge that there is a high probability of considerable and either extensive or enduring environmental harm caused by such acts<sup>3</sup>. According to this definition, there are: (a) a mental

<sup>1</sup> Milena Sterio, "Crimes Against the Environment, Ecocide, and the International Criminal Court," 56 Case W. Res. J. Int'l Law 223 (2024) (explaining that the ILC's drafting work leading to the Rome Statute considered environmental crimes but ultimately excluded ecocide from the final treaty, leaving a gap in accountability for peacetime environmental harm).

<sup>2</sup> Jojo Mehta (Stop Ecocide International), quoted in Rachel Pannett, Washington Post (Sept. 10, 2024) (stating that the primary goal of criminalizing ecocide is deterrence, by creating moral and legal boundaries

that brand extreme environmental harm as unequivocally unacceptable).

<sup>3</sup> Independent Expert Panel for the Legal Definition of Ecocide, Commentary and Core Text (June 2021) (proposing the consensus definition of "ecocide" as "unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts," and defining key terms such as "wanton," "severe," "widespread," "long-term," and "environment").

component of intention or awareness of probable harm (including recklessness, which is termed as wanton conduct), and (b) a component of environmental loss that is severe (very serious adverse changes) and is widespread (an area beyond a limited location or a whole ecosystem or species) or long-term (irreversible or irreparable within a reasonable period). Noteworthy, environment is generously defined as the biosphere, cryosphere, lithosphere, hydrosphere and atmosphere of the earth, all of the flora, fauna and natural systems. The definition, in fact, focuses on immensely irresponsible or unlawful actions, resulting in disastrous effects on the environment.

The resurrected proposal of ecocide has been acquiring a lot of momentum at the international platform. In 2024, several small island developing states, including Vanuatu, Samoa and Fiji, officially presented a proposal to reform the Rome Statute and add ecocide as the fifth core international crime. Their project brought into emphasis that the problem of climate change and environmental degradation is an existential threat to the vulnerable countries and the response through legal means should be undertaken on the highest level. Following its adoption, the amendment would give the ICC the authority to prosecute individuals (e.g. corporate leaders or officials) who cause great environmental degradation, even during peacetime. Simultaneously, suggestions have been made to incorporate environmental atrocities as a specific crime in a future UN convention on crimes against humanity, which might be a second way of enshrining such acts as an international crime. The regional trend is positive, as well: a new Convention on Protection of the Environment through Criminal Law, the first international treaty to mention ecocide directly and to require laws in the country to criminalize severe environmental damages, was adopted by the Council of Europe in 2025. Similarly, the European Union has proceeded to enforce its Environmental Crime Directive by including crimes in the nature of ecocide and also requires its member states to punish gross environmental violence<sup>4</sup>. These trends are indicative of an emerging agreement that the law has to change to deal with the large scale destruction of nature.

The initiative to criminalize ecocide has come with a lot of obstacles although many states and civil society organizations have shown enthusiasm to make such a move. Definitional clarity is an issue, critics observe

that such terms as severe, widespread and long-term are imprecise by nature and place the burden on harm of a high bar which might not be easily met in court. In fact, the current war crime provision by the ICC that includes such a similar language has not resulted in any prosecution in part because it is tedious to prove that environmental harm was evidently excessive or long-term in a combat scenario. Other scholars warn that the present meaning of ecocide, in appropriating these harsh adjectives, may also lead to a type of crime, which is mainly symbolic and seldom prosecuted. There are also intricate issues concerning the mens rea in international law with a condition regarding the knowledge of a significant probability of harm on the part of the perpetrator. The structure of the ICC tends towards intent or knowledge in criminal liability (under Article 30 of the Statute), and does not obviously accommodate reckless indifference as a standard of guilt. The definition of ecocide incorporation of the concept of wanton, which implies careless behavior without paying attention to the extreme harm, is an expansion of the concept of mental state beyond the conventional measure of intent, which may clash with the requirements of mens rea under the ICC unless changes are made to it<sup>5</sup>. These legal arguments also highlight the fact that the incorporation of ecocide into the framework of the ICC would not only be a historic policy change but it would also require a delicate balancing of definitions so that it is both effective and that give due notice to the accused. Still, the ethical and political necessity that inspired the movement of the ecocide does not go away: the legal order of the world, it is said, must acknowledge that despoliation of our world is an atrocity by itself, and it gives institutions the power to punish its perpetrators on the highest level.

### **Wildlife Crime: International menace to biodiversity**

Wildlife crime, the illicit exploitation of wild plants and animals, has risen to massive proportions and magnitudes over the past few decades, becoming a multibillion-dollar transnational black market. This type of crime includes stealing of the guarded animals, unlawful commerce in the body parts of animals (ivory, rhino horn, tiger bone), unlawful logging and timber deal, and unlawful harvesting or commerce of the endangered plant species. Wildlife crime has been a low-priority conservation issue; however, it is now being viewed as an organized crime with international

<sup>4</sup> Directive (EU) 2024/1203 of 11 April 2024 on the protection of the environment through criminal law (EU Environmental Crime Directive recast) – significantly expanding the scope of punishable environmental offenses in EU law, aligning with some aspects of the ecocide concept by targeting serious, cross-border environmental crimes and imposing tougher sanctions.

<sup>5</sup> Arora, Völkerrechtsblog (2023) (analyzing the incompatibility of the ecocide mental element with ICC's Article 30: noting that ICC crimes usually require intent/knowledge, whereas ecocide as defined would include reckless disregard; pointing out potential conflict unless the Rome Statute's mens rea framework is adjusted or an exception is carved out for ecocide).

features and severe outcomes. International syndicates which use advanced networks to transport contraband across borders usually drive the activities, as in drug or arms smuggling rings, and are similar to the organized crime frequently observed in money laundering, fraud, and various crimes against the state. Wildlife trafficking has been named as one of the major transnational organized crimes by the United Nations and Interpol, which is often associated with money laundering, fraud, violence, and corruption<sup>6</sup>. It is the structured character of this illegal business that helps it to continue to exist on a large scale despite having national and international laws that forbid this kind of trade.

Wildlife crime has had an apocalypse effect on biodiversity. The risk of extinction is being posed on many of the species. As an illustration, the population of African elephants has dropped dramatically because of ivory poaching, in one instance, in 2019 the Hong Kong government impounded a record 9.1 tonnes of smuggled ivory, which analysts estimated to be tusks of more than 900 killed elephants in a single shipment. This was after a 7.2-tonne confiscation in 2017 (the largest ever), explaining how the amount of illegal trade has grown exponentially. Likewise, the scaly anteater (pangolins) is the most trafficked mammal on the planet, despite being outlawed internationally, the scale of the pangolin slaughter is estimated at 350,000 in the last two years, 2017 to 2018 alone, by scales inspected by the customs services. At sea, species of sea turtles to sharks are being decimated by the pressure of poaching. Approximately 100 metric tons of prohibited sea cucumber were captured in a ten years time span suggesting that colossal overfishing of these animals in coastal ecosystems was done. In 2020, Hong Kong caught 26 tonnes of shark fin (out of an estimated 38,500 sharks) during a single confiscation, primarily of endangered species, underscoring the industrial nature of the marine wildlife killing being conducted to make black-market money. These are just the tip of the iceberg, thousands of less known mammals, birds, reptiles, fish and plants are being captured and traded illegally across the tropics and further, adding to what are termed by scientists as a crisis in biodiversity. In 2019, a groundbreaking United Nations-supported evaluation estimated that a million species are at risk of extinction within the

subsequent decades, lots of which are because of habitat loss and overuse, and wildlife crime has been recognised as a primary catalyst in the livelihood of many fauna groups<sup>7</sup>.

Such losses have a severe impact on the environment. Wild species are part and parcel of the ecosystems, and their destruction may cause ecological imbalance or destruction. Within the healthy ecosystems, biodiversity ensures a web of relationships, e.g., predators keep the populations of prey in check, herbivores keep the vegetation under control, pollination facilitates reproduction of the plants, etc. Structured poaching can be used towards keystone species (such as tigers, elephants, rhinos) or apex predators (such as big cats and sharks) whose extinction may trickle down food webs. Faced with a situation of rampant tiger poaching, the Supreme Court of India, noted that, "by organ trade criminality, greedy and rapacious individuals have by destroying large portions of the wildlife of India, carried many of the animals... to the threshold of extinction, thus seriously imperilling and annihilating the ecological chain and ecological balance within our environment. This quote highlights the fact that wildlife crime does not just entail the loss of a single animal, but destruction of a whole ecological community. The ecological situation is upset when, say, the killing of predators results in excess population of the prey and overgrazing, or the killing of seed-dispersing animals prevents forest regeneration. The imbalances have the potential to undermine ecosystem services (such as pollination, the purification of water, the storage of carbon) that are critical to human health<sup>8</sup>.

However, in addition to the loss of biodiversity, there are collateral effects of wildlife crime in animal societies and the environment in general. The transmission of zoonotic infections is one of them: the illegal wildlife trade, by introducing different species into unsanitary black markets, provides a route through which pathogens can infect humans (as in the case of wildlife-linked viruses). The Covid-19 pandemic increased the awareness of the fact that the misuse of wildlife may present a threat to the health of the entire world. Moreover, wildlife trafficking has been known to thrive in areas that are marred with poor governance and corruption, and therefore it exploits as well as

<sup>6</sup> UN General Assembly Resolution 75/311, "Tackling Illicit Trafficking in Wildlife" (July 21, 2021) (calling upon Member States to classify wildlife trafficking as a serious crime, enhance cooperation, and acknowledge the links between wildlife crime, corruption, and organized crime).

<sup>7</sup> Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), Global Assessment Report – Summary for Policymakers, at 4–8 (2019) (finding that up to 1 million species risk extinction, many within decades, due to human

impacts including habitat loss, overexploitation (poaching/harvesting), pollution, invasive species, and climate change).

<sup>8</sup> *Sansar Chand v. State of Rajasthan*, (2010) 10 SCC 604 (India), at para. 3 (Supreme Court of India) (stating that organized poachers have "destroyed large parts of the wildlife of India" and brought many species to the brink of extinction, thereby "seriously jeopardizing and destroying the ecological chain and ecological balance" in the environment).



increases the situation. Traffickers corrupt the officials and erode the rule of law looting national resources and revenues. The bribery and illegal funding of high-value wildlife goods contribute to other types of criminal acts and can even be a sub-cause of conflicts (ivory and charcoal trading have been associated with hiring of militias in Africa, such as). Locally, natural capital, healthy wildlife populations and ecosystems that might sustain ecotourism or sustainable use, are deprived to the economies of the local communities and nations. The World Bank has pegged the total economic loss due to illegal logging, fishing and wildlife trade in the world economy to the tune of USD \$1-2 trillion/annum when the loss in terms of natural resources depletion, loss of ecosystem services and damages to socio-economic activities are considered. This is a significant unknown burden on the sustainable development that is this illegal plunder of natural wealth.

Considering these aspects, the international community starts viewing wildlife crime not only as a conservation problem but also as a problem of international security and justice. The UN general assembly has continuously denounced the existence of illicit wildlife trafficking, urging states to treat it as a grave offense and increase the punishments and transnational collaboration[29]. There has been an increase in the strength of laws made by many countries, such as the Wild Life (Protection) Act 1972 (amended 2002) in India which now provides lengthy prison sentences (3-7 years, with a potential further 7+ years for repeat offenses) and fines, to act as a warning of the seriousness with which such acts are taken. However, it is not always enforced on the ground because of the shortage of resources, the enormous size of the remote land to be covered by the police, and the unquenchable appetite of the black market. Wildlife crime has taken the shape of a challenge in India, a megadiverse country, where tigers, elephants, rhinos and other valuable species can be found. Infamous masterminds in the poaching industry such as Sansar Chand (who trafficked hundreds of tiger and leopard furs) worked decades of their lives in destroying the species of big cats before protection measures finally came into action and apprehended him. Sansar Chand v. the Supreme Court. State of Rajasthan (2010) supported his decision and advocated the tough treatment of individual wildlife traffickers, regretting the fact that so many wildlife preserves were robbed of their animals by poacher. Even with this judicial awareness and stricter laws, India is still facing organized criminal networks dealing into wildlife, in

order to provide sustenance to the poor and with leaky borders, further action is required, even though stronger laws have been put in place.<sup>9</sup>

On a global scale, thus, we can see a clear image: biodiversity destruction at an industrial level is happening due to wildlife crime, with a long-term negative impact on the environment. Such acts when done by choice or carelessly despite their disastrous effects are the basis upon which, therefore, the argument would consider such acts as "ecocide" should they be committed. The latter section will discuss how ecocide could be legally considered as ingrained in the comminuted wildlife crimes, and thus it could fall under the jurisdiction of the International Criminal Court.

### **Wildlife Crime and ecocide: Parallel Ranges**

The ecocide that is proposed as an international crime is specifically applicable to the struggle against wildlife crime since the latter forms its most extreme manifestation of the intentional destruction of the species and the ecosystem. In order to evaluate this intersection, we can use the aspects of the definition of ecocide to situations of extreme wildlife crime. The definition of ecocide as proposed by the Independent Expert Panel entails activity that is likely to result in a severe and widespread or long-term environmental loss, whether intentionally and wantonly or illegally committed<sup>10</sup>. Significant wildlife crimes can fulfill all of these aspects:

Major destruction of the environment: In ecocide, severe is the category that is used to define damage that results in very serious adverse changes, disruption or harm to any component of the environment. An element of the environment is obviously a species of wild animal or plant, along with its contribution to the ecosystem. In the cases when a species is pushed to extinction or extirpation by a region due to some poaching or illicit trade, this will mean a very grave negative alteration on that element. The fact is that, when a specific species is endangered with extinction due to actions, it is certainly considered as an extreme environmental damage. A good number of high-value wildlife offenses, tiger poaching, the trafficking of ivories, elephant tusks, illegal logging of valuable trees, simply do this. To illustrate, the slaughter of the final surviving vaquita porpoises in illegal fisheries through bycatch has put the species at the verge of extinction (fewer than 20 individuals remain), which

<sup>9</sup> Sansar Chand v. State of Rajasthan, (2010) 10 SCC 604 (India)

<sup>10</sup> Independent Expert Panel for the Legal Definition of Ecocide, Commentary and Core Text (June 2021) (proposing the consensus definition of "ecocide" as "unlawful or wanton acts committed with knowledge

that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts," and defining key terms such as "wanton," "severe," "widespread," "long-term," and "environment").

surely qualifies as a severe damage<sup>11</sup>. Although a species does not disappear worldwide, removal of much of its population (local extinction of a critical habitat) can be found to be severe enough, considering the non-recoverable loss of biodiversity and ecological service. The Indian Supreme Court in *Sansar Chand* observed that organized poaching had reduced many animals to the verge of extinction and demonstrated that the judiciary were aware that such activities are fundamentally harmful to the integrity of the environment. In both cases, scientific evidence would be necessary to determine the level of population loss and disruption of the ecosystem due to the wildlife crime. Nevertheless, the severity standard is evidently fulfilled in situations where there is significant extinction of endangered species.

**Extensive or sustained harm:** The definition of ecocide also demands that the harm should be extensive or long-term (or both). Wildlife crime has the potential to check both. Widespread is destruction that goes beyond a restricted area, or is that which is caused to an ecosystem or a species as a whole. Killing a species (global extinction) is by definition mass destruction, it is harm to a whole species of organisms and every ecosystem it formerly inhabited. Extermination even on a localized scale (e.g. destroying all the lions in a specific area) can be considered widespread when it involves an area of geographic coverage or an entire ecosystem of such a scale. The definition explicitly points that damage that has been incurred by a complete species is counted as widespread<sup>12</sup>. Besides, the ripple effects of lost species are also widespread: when a species is eliminated, the impact on an ecosystem throughout the whole area is observed. As an example, trophic cascades triggered by over-fishing sharks (apex predators) in a marine ecosystem can result in a complete shift in the entire marine habitat structure, a type of extensive ecological perturbation[24]. On long term damage, this is considered to be the damage that cannot be withdrawn or cannot be repaired through natural means within a reasonable period of time. When a species is pushed to extinction (or to functional extinction where the remaining few individuals are surviving), the damage is practically irreversible. Once gone, it is gone

forever, the value that is lost is unique genetic and ecological. Therefore, any practice of wildlife crime that endangers the existence of the species in essence causes long-term harm. Although the decline of a species may be reversible with extreme treatment (e.g. decades of breeding programs), it is definitely short-term inaccessible again, which merits the long-term requirement. Concisely, activities that jeopardize or lead to the extinction of a complete species will most probably be classified as widespread and long-term harm in the ecocide definition since legal scholars have observed. Ecocide threshold is hence appropriate to attract the worst types of wildlife crime.

**Criminal or unthinking:** The definition of ecocide encompasses acts that are either criminal (those that violate laws) or wanton (i.e. carried out with casual disregard of the fact that the damage is obviously excessive in comparison with any benefit). Good wildlife crimes are generally illegal in nature, as they are poaching or trafficking of wildlife against national wildlife protection laws and international conventions (like the CITES, the Convention on International Trade in Endangered Species, to which nearly every nation is a party).<sup>13</sup> The unlawful prong would be met in an ecocide prosecute against wildlife trafficking and the perpetrator would have satisfied the unlawful prong easily since the act is already criminal in domestic law. This is what makes ecocide different to other forms of environmental damage such as widespread pollution, which may be technically permitted through soft laws, and hence must be considered by the other indiscriminate criterion. Nonetheless, hypothetically speaking, even without an act of explicit illegality (severe destruction of wildlife), e.g. when an actor takes advantage of a legal regulation or acts in a jurisdiction where it is not enforced, it might be termed as wanton. Wanton in the definition of ecocide refers to an act carried out with careless indifference to the harm, in more than an amount expected to generate a social or economic advantage. There is not much valid social good in poaching and trafficking endangered species, it is a matter of greed and black market. So even without there being any specific illegality, this would still be nearly always a purely wanton act, since no rational

<sup>11</sup> Armando Jaramillo-Legorreta et al., "Decline towards extinction of Mexico's vaquita porpoise (*Phocoena sinus*)," 6(7) Royal Society Open Science 190598 (2019) (documenting the precipitous decline of the vaquita due to entanglement in illegal fishing gillnets for another endangered fish, illustrating how wildlife crime (illegal fishing) can drive a non-target species to near extinction).

<sup>12</sup> Kate Mackintosh et al., "Wildlife Crime: Testing the Waters for Ecocide," Promise Institute Symposium on Ecocide (2023) (arguing that serious wildlife crimes can fall within the proposed ecocide definition: acts threatening species extinction meet the "severe" harm

requirement; damage to an entire species or ecosystem qualifies as "widespread"; and such acts are usually long-term and either unlawful or wanton by nature).

<sup>13</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Mar. 3, 1973, 993 U.N.T.S. 243, and amendments – nearly all UN Member States are parties (183 parties as of 2025) and are obliged to prohibit trade in species listed on Appendix I (those threatened with extinction) except under limited circumstances; thus, international trafficking in such species (like tiger skins, elephant ivory, pangolin scales) is illegal under both international and implementing national laws.

balancing could decide that the killing of, say, hundreds of elephants to take their tusks was worth more than actual social good. The tacking of wantonness into the definition further makes sure that the perpetrators cannot get off on a technicality of legality; it tackles the egregious conduct of high probabilities of inflicting great harm yet the perpetrator took the risk due to the careless willingness to make a profit. In reality, the test of proportionality inherent in wantonness only fishes out the guilt of wildlife criminals: ruin of natural heritage and biodiversity has little or nothing to offer the profiteers in personal profit, but is accompanied by irreparable losses to the community and the planet, a striking example of harm that is much greater than the alleged good.

Through all of these aspects, serious cases of wildlife crime can take a comfortable place in the legal framework of ecocide. Overall, in situations whereby employing organized poaching or trafficking simultaneously leads to serious, extensive and irreversible ecological harm such as pushing species to extinction, destroying wildlife populations, and destroying ecosystems, it can be labeled as ecocide. This has prompted legal scholars to start analyzing wildlife crime in these terms, by claiming that the most serious violations of wild species should be considered ecocide and have them prosecuted internationally. This approach re-invents wildlife poachers and traffickers not only as breachers of conservation laws, but as people who have committed atrocity crimes against nature. It also highlights the least talked about victims of such crimes, in addition to killing individual animals in a sadistic way, the diversity of nature is a victim to the entire species (and the human beings relying on healthy ecosystems).

Some practical examples of the ecocide charge in reality are described. An example here might be an international cartel of killing a critically endangered animal in more than one country, e.g. the hypothetical one where a syndicate kills virtually all the remaining wild tigers to make a profit. There are only about 4,000 tigers in the wild, and their extinction would be a catastrophe to the ecosystems in Asia that cannot be fixed once it is destroyed. An ICC indictment on ecocide might be considered in the event of evidence that the leaders of the syndicate had willfully failed, despite knowing that their actions might cause significant damage in the long term, particularly in terms of extinction (of *Panthera tigris*). The other situation could be that of such illegal logging in the Amazon rainforest to the extent of total ecological failure in a region with a resultant effect of thousands of species and climate regimes. As long as the behavior

fits the high standards of scale and motive, ecocide offers the basis by which the most culpable individuals the kingpins or those who allow the annihilation to take place can be prosecuted in an international tribunal, bypassing the restrictions of the legal jurisdiction of a single nation.

It should be emphasized that not every crime against wildlife would constitute ecocide. The idea is appropriated to the most serious assaults on nature. Therefore, a single or minor act of poaching, although a negative one, is not escalated to an international crime. Ecocide, as it would be imagined, would only be applied to those instances where the amount of harm is outrageous, such as industrial-scale poaching operations, or large-scale campaigns that destroy wildlife populations. This is a high bar relative to ICC emphasis on crimes of grave enough nature that will shock the conscience of humanity. In practice, the issue of charging ecocide may only be introduced in a few exceptional cases of wildlife crime, however, even the threat of this may have a significant deterring and normative impact. The very fact that in international law, the killing of a species or an ecosystem is per se criminal would strengthen the conservation regime that exists and would make the protection of nature a fundamental value of the international community.

### **The Position and Future of the International Criminal Court**

By including ecocide to the jurisdiction of the ICC, the Court in The Hague would be the court to convict some environmental atrocities, such as some statutory wildlife crimes, which the national government fails to deal with. As at now, as observed, the ICC is crippled in addressing environmental damage. The Court is only able to indirectly address such issues under status quo. An example is given of some acts of environmental destruction being prosecuted as war crimes (in conflict and meeting the high threshold of Article 8) or even as crimes against humanity in extraordinary circumstances (such as where environmental harm is a deliberate military action against a civilian population).<sup>14</sup> No ICC case has to date focused on environmental or wildlife destruction. The proposal of ecocide as a separate crime would alter this by providing prosecutors with a hook to the law.

The amendment process of the Rome statute is in itself a difficult one. It needs a proposal by a State Party and two-thirds majority of States Parties and then seven-eighths majority of States Parties to ratify it, then it goes into force by those who ratified it. As stated, a group of fundamental states spearheaded by Pacific

<sup>14</sup> Milena Sterio, "Crimes Against the Environment, Ecocide, and the International Criminal Court," 56 Case W. Res. J. Int'l Law 223 (2024) (explaining that the ILC's drafting work leading to the Rome Statute

considered environmental crimes but ultimately excluded ecocide from the final treaty, leaving a gap in accountability for peacetime environmental harm).

Island states has started this process and there is an increasing diplomatic backing. In 2025, the tide was beginning to flow: a motion of the International Union of conservation nature (IUCN) a global government and non-governmental organization urged the recognition of ecocide and specifically asked ICC States Parties to amend the Statute to do so. Besides, other countries are leading the way, such as Belgium, which has revised domestic legislation; In 2022 Belgium became the first EU country to introduce ecocide into its penal code, with an offence punishable by up to 20 years of imprisonment of causing severe, widespread and long-term environmental harm. This national precedence instills belief and use in the notion. The criminal code of the Kyrgyz Republic, which outlaws "mass destruction of animal or plant kingdom... or other acts that can lead to ecological disaster" is yet another instance that criminalizes ecocide on a national scale<sup>15</sup>. Such measures by individual states are indicative of an acknowledgement that extreme environmental degradation is a criminal offense and not an issue of regulatory interest.

The ICC itself has indications that it is willing to go green. The current Prosecutor through the Office of the Prosecutor (OTP) has initiated efforts to incorporate environmental crime factors. In 2016, the policy paper of OTP on case selection stated that it would provide special consideration to the crimes that involve the destruction of the environment, illegal exploitation of natural resources or illegal dispossession of land. The move was an indication that although there is no ecocide law, the ICC will choose cases where environment destruction is proven to be combined with the prevailing offenses (such as militia chiefs accused of looting natural resources or environmental destruction as an aspect of war could be prosecuted). Expanding on this, in 2023-2024 the OTP started working on a specific Policy on Environmental Crimes, and consultations on the creation of how to investigate and prosecute crimes such as environmental crimes within the framework of the ICC began in 2023-2024 (in this context, environmental crimes rarely fall under the jurisdiction of the national courts).<sup>16</sup> This policy has been developed in recognition of the fact that it requires special skills and approaches in handling the environmental evidence,

scientific data, and ecological harm that is multifaceted in nature. It also prepares the ground upon which the Court may, actually, deal with an ecocide case in the future. Even as the institution struggles to come to terms with its traditional caseload of violent atrocities, the ICC Prosecutor has openly declared that the attacks on the natural environment and responsibility over ecological destruction are becoming priorities to international justice<sup>17</sup>.

In case ecocide comes under the jurisdiction of the ICC, what is a realistic implication of the same on wildlife crime and environmental protection? Its advocates claim that it would have a preventive effect much greater than a handful of cases that would be prosecuted. The threat of international criminal responsibility, where the individual offenders may be subjected to the international arrest warrants and international blame, may deter those actors already operating freely. As co-founder of Stop Ecocide Jojo Mehta says, its main objective is protective: it is deterrence... The understanding of the fact that some extreme degrees of damage may not only be illegal but also anything less than acceptable would potentially make potential kingpins of the wildlife industry or the accomplices in the authorities of the respective countries reconsider, particularly when the states they belong to are not ready to protect them. It would also put the level of environmental destruction in the same league with heinous crimes such as genocide and this would send a powerful normative message. This will make further enforcement at the national levels more plausible as well, nations can tighten their laws and prosecutions to avoid the shame of the ICC intervention (the same way that human rights prosecutions have infrequently prompted domestic one). Also, a successful case of ICC ecocide would draw worldwide attention to the issue of environmental crimes, which may mobilize the resources to conserve nature and pressure consumer nations to reduce demand that leads to wildlife trafficking.

Nevertheless, the ICC has its own limitations of what it can do in this area. Jurisdictional reach is one of the biggest limitations. The ICC is limited to prosecuting crimes committed on the jurisdiction of or committed by the nationals of States which are signatories to the

<sup>15</sup> IUCN World Conservation Congress 2025 – Motion 061 “Recognizing ecocide to protect nature” (adopted Oct. 2025) (calling on States to recognize ecocide as a serious international crime and consider amending the Rome Statute to include it; commending nations like the Kyrgyz Republic which have domestic ecocide laws, and noting the ICC initiative by Vanuatu, Fiji, and Samoa) – see Jessica Antonisse, “Governments Recognize Ecocide As a Crime at World’s Largest Conservation Congress,” Earth.org (Oct. 22, 2025).

<sup>16</sup> ICC Office of the Prosecutor, Draft Policy on Environmental Crimes (2024) (in development) – the

OTP launched a public consultation on a new policy to guide investigations of environmental crimes within existing ICC mandate, reflecting the Court’s increasing focus on environmental harm.

<sup>17</sup> Sadat (2025), Just Security (advocating for inclusion of environmental destruction in the prospective Crimes Against Humanity treaty as an alternative path, given limitations of the ICC’s jurisdiction and the slow amendment process; suggesting multiple avenues to achieve accountability for ecocidal acts).



Rome Statute (or otherwise annexed its jurisdiction). A significant number of the worst environmental perpetrators in the world are those not members of the ICC, examples of such countries include China, India, Russia and the United States that are not members of the ICC<sup>18</sup>. These nations are the main markets of illegal wildlife products or locations of severe environmental damage, but their citizens would be usually out of the jurisdiction of the ICC without a UN Security Council referral (which is politically improbable in such instances). This implies that an ICC ecocide law would not have a balanced global coverage. A trafficker in an ICC member country in Africa might face prosecution whereas an individual in a non-member country may avoid that external responsibility. The critics state that this will bring a loophole into the jurisdiction as far as the ecocide law is involved. Conversely, the pressure of the non-member states may also be indirect: international norms tend to affect the behavior, and non-member states may still expose their companies or individual citizens to traveling risks in case they travel to the jurisdiction of the ICC. In addition to this, most national jurisdictions that are ICC members in the Global South (where wildlife crime is practiced) are biodiversity rich countries, e.g., most of sub-Saharan Africa, Latin America and Southeast Asia (except, some, such as Indonesia), and therefore, could be the target of ecocide prosecutions should there be collusion or laissez-faire on the part of national authorities to prosecute large-scale wildlife depletion.

The other practical problem is the evidence and attribution problem. To establish the case of ecocide particularly wildlife crime, a vast amount of scientific and investigative efforts would be required to connect certain culprits to the environmental harm. Not just a simple murder, ecocide is often characterized by attributing policy-making or chain-of-command accountability to the propagation of diffuse ecological effects (such as species loss). The ICC Prosecutor would have to have some expertise in the fields of ecology, wildlife forensics, remote sensing (to demonstrate destruction of the habitats), etc. in order to demonstrate the scope of the damages to the environment and the causation of the same by the actions of the accused. It is daunting to collect such evidence across the borders, maybe in a jungle or war-torn region. To convict a kingpin in wildlife trafficking, in one example, one would have to show that his or her organized poaching business resulted in a critical depletion of a species and that he or she knew the probable result. It is difficult, but not impossible; international investigative agencies and NGOs have more advanced data on the networks and effects of

wildlife crimes. ICC investigations may be assisted by collaborative activities (e.g. in cooperation with such organizations as the Wildlife Justice Commission or environmental crime unit of the Interpol). Nevertheless, the goodwill of such cases may preclude the number of cases that can be resource-intensive on top of the current docket of the OTP involving war crimes, genocide, and so on.

Lastly, political will is a factor to be considered. Other countries are not convinced or are even opposed to making ecocide an international criminal offence due to the fear that it might be exploited to attack state policy (such as a massive infrastructure project or natural resources exploitation) or as a political weapon. Converting a wide range of nations, which will comprise of the major powers too, to sign the amendment will presumably be a lengthy diplomatic game as one pundit remarked. Although it may be adopted, it will only be enforced through cooperation of states to arrest the suspects. Enforcement may be lobbied by powerful interests (e.g. criminal syndicates or even state-run companies). The success of an ICC ecocide regime will therefore be dependent on strong backing by the international community, sufficient funding of environmental case work and going on a tight rope to avoid overstepping into authoritarian sovereign choices.

### Difficulties and Future Projections

Ecocide, as criminalized by the ICC, is a significant and new territory, and it is associated with its own problems and criticisms. A key issue, as addressed, is getting the legal definition narrow enough to be enforced but open enough to indemonstrate really heinous behavior. It has been criticized that the current proposal places too high a burden on the qualifiers such as widespread and long term may be too high of a bar (some commentators believe that the addition of the term wanton (with its ratio of harm versus benefits test) would permit defendants to escape liability on grounds of economic necessity or benefit). Some of the critics of this subjectivity of harm-benefit as a balance are perceived to be an intrusion of the anthropocentric mode of thought (understanding nature solely through a human cost-benefit prism) into a crime that is supposed to be ecocentric. A way out has been proposed by some scholars: either abolishing the aspect of wanton when illegality is proven (because most of the most heinous acts will already be illegal), or making it clear that economic gain should not be used to justify actually extreme environmental damage in the form of an international crime. It will be

<sup>18</sup> Rachel Pannett, Washington Post (Sept. 10, 2024) (observing that some of the world's biggest polluters and emitters – e.g. China, India, Russia, the US – are not ICC members, which could pose challenges to enforcing any ecocide rulings; also citing experts in

The Conversation that the term “wanton” may set the bar too high for prosecution, and mentioning Pacific island nations’ advocacy of ecocide in light of climate change threats).

important to refine the definition and constituents of proof perhaps through Elements of Crimes or ICC jurisprudence in order to bring ecocide practices to bear prosecution.

The other difficulty is with the interface with the current principles of international law. The ICC works on complementary mode of operation, that is, it interferes when national legal systems are unwilling or incapable of prosecuting. In the case of ecocide, some countries might claim to combat an environmental damage in their own countries (e.g. by imposing fines or civil sanctions), albeit insufficiently, to deter the ICC. It may be difficult to establish the unwillingness or inability in the environmental context. Furthermore, such aspects of the principles as *nullum crimen sine lege* (no crime without law) and the requirement of a foreseeability of criminality (not the means of a defendant) could be suggested by the defense counsel, i.e. is it foreseeable by a defendant that his or her environmental behavior, which was not a crime internationally before, would put them in the custody of the ICC? These are not so much problems that are impossible to overcome (particularly when the behavior was domestically unlawfully evident and morally egregious), but it serves to emphasize the legal grounds that must be upheld to prevent the criticism of due process.

Geopolitically, in the above sense, unequal participation is an issue. Big economies who cause considerable damage to the environment may not sign the treaty. Influence can still be exercised, using global civil opinion and money: so once the ecocide is considered to be regarded as such by many states, the corporations may be pressured by the international investors and customers to cease executing practices that may be regarded as ecocidal, even though the home state is not a member of the ICC. Also, continued pressure on the United Nations, e.g. by the UN Environment Assembly, where an ecocide draft resolution is likely to be further advanced, can contribute to further normative consensus.

An ICC ecocide law in the particular field of wildlife crime would translate to the rest of the world that the destruction of species is perceived as a crime against the heritage of the whole humanity. It might overlap with other initiatives, including the suggestion of a new international convention on wildlife crime (suggested by some as a wildlife crime convention) under the auspices of the UN (UN). Although the ICC may only accept a handful of cornerstone cases (such as against large traffickers or officials who have been involved in the large-scale destruction of wildlife), the cases themselves might act as precedents or provide a real effect to already poorly enforced laws. International prosecution is a threat in itself; it may enhance international cooperation in the area of law

enforcement, intelligence-sharing, and extradition of wildlife crime offenders.

Going forward, suggestions that can be made to strengthen this fledgling regime are: (1) Making ecocide an inclusive movement, incorporating states both of the Global South and North to make the adoption of ecocide appear as a mainstream, rather than a political, action. (2) Capacity-building, investing in expertise to deal with scientific evidence by the ICC and national judiciaries, and appreciating partnerships with environmental experts. (3) Incrementalism, it is proposed that ecocide should be initially included in the proposed Crimes Against Humanity treaty or regional agreements as a pilot project to get the states accustomed to the idea before full admission to the ICC status occurs (which could be interpreted as excessive criminalization of minor violations of environmental protection laws). This may include establishment of gravity levels or prosecutor policies. (5) Synergy with prevention and restoration, applying the law not merely in a punitive way, but to promote restoration; an example being, as part of the sentencing process or as part of making amends, an order to restore degraded ecosystems.

## Conclusion

The drive to declare ecocide, and huge wildlife crimes, as a global crime is indicative of a sea change in the legal and moral thinking in the age of planetary crises. No longer does massive destruction of the environment remain the preserve of a regulatory or civil issue; an increasing number of people are viewing it as a vice so heinous that it insults the primordial principles of the international community. In this study, the phenomenon of wildlife crime has been examined as an example of ecocide: when poachers and smugglers destroy species and destroy ecosystems, they are committing harm to everyone, in the long run and irrevocable, which is exactly what a new ecocide law should be designed to deter and eliminate. The fact that such crimes are to be placed in the jurisdiction of the International Criminal Court would put the issue of environmental protection on the pinnacle of the law enforcement as it is proper to consider that nature deserves to be placed under the protection of the severe human lust and violence.

Globally, the ecocide criminalization would be a much-needed gap in the current system. It would enable the ICC to help curb atrocities against nature, which are currently beyond contamination and hence supplement actions under environmental treaties and national legislations. The concept echoes within the Indian context as well where organized poaching of rich biodiversity has taken a toll on the environment and the yet to come generation, the country itself understands that destruction of wildlife is the cause of destruction of the environment and the coming

generation too (in jurisprudence and policy). India is not an ICC member, but will have a beneficial effect of living in a world where crimes against the environment are globally discouraged and condemned, and; eventually, international law may converge on India as it has on other areas of the international law.

Clearly, the ecocide regime has challenges on its path to becoming operational, including legal red tape, geopolitical crosswinds, etc. However, the trend that the international law has taken is to increase the scope of the protection, to human rights and possibly, to the environment that supports all life. When the international community succeeds in developing a viable definition and mobilizing the political will, the addition of ecocide as the fifth crime to the Rome Statute would be a historic development of the law. It would confirm that part of the red lines of how we treat our planet: wiping species, poisoning rainforests, and clearing the oceans, all that is a contravention of an essential peace, and its perpetrators are no longer able to do so with impunity.

It is possible to say that Ecocide: Wildlife Crime and the International Criminal Court is not only a legal concept but also a symptom of the increased awareness of humanity that our life is connected to the natural world. Putting people criminally responsible on a grand scale to destroy wildlife grossly sends a strong signal that preserving the biodiversity of the planet is a civic duty and its intentional annihilation is a crime against us all. This and similar development, combined with enhanced domestic implementation and international collaboration, would be one of several approaches that would be used to stop the biodiversity crisis. Although law in itself may not work miracles to salvage the environment, it may be a powerful instrument of redefining behavior and promoting values that are shared by all. Ecocide acknowledgement would therefore become a wakeup call that the days of consequence-free ecologically disastrous behavior are coming to an end, and that a new epoch of environmental justice is beginning to rise.

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