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Ecocide and the Limits of the Rome Statute: Bridging the Accountability Gap in the International Criminal Law with special reference to India

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ABSTRACT

Ecocide, which is defined as the widespread devastation of ecosystems or deliberate or negligent acts which lead to significant environmental harm, has become a major worldwide issue and is being discussed more and more as a possible fifth international crime under the International Criminal Court's (ICC) framework. This essay assesses whether India should make ecocide a separate crime and looks at the legal void in international criminal law pertaining to significant environmental harm and it advocates for liability under the international law to address the severe environmental or ecological and human rights consequences of ecocide. It examines the Rome Statute's shortcomings, especially its anthropocentric perspective and limited acknowledgement of environmental damage as a component of war crimes. The report also assesses India's current environmental system, including the proposed Ecocide (Prevention and Accountability) Bill, 2025, constitutional issues, and judicial developments. Despite India's robust environmental jurisprudence, accountability for extensive ecological harm is weakened by substantial enforcement gaps and a dependence on civil remedies. A comparison of countries like Belgium and France reveals new tendencies in the criminalization of ecocide around the world. The article lists the main obstacles, such as tensions between development and environmental protection, definitional uncertainty, and evidential issues. The formal recognition of ecocide, the inclusion of corporate accountability, the creation of ecological baselines, and the bolstering of enforcement mechanisms are all recommended in its conclusion. In order to solve current environmental issues and bring legal systems into line with changing global ecological realities, the paper contends that criminalizing ecocide is crucial.

Keywords: *ecocide, environmental law, India, corporate accountability, enforcement, criminalization, protection.*

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I. INTRODUCTION

In our day-to-day life, we are witnessing the destruction of our environment, our forest, our atmosphere, even our home which is driven by profit seeking recklessness. Ecocide, the mass damage to ecosystems, is no longer a distant threat, it is a present reality stealing our future. The continuous destruction of environment done by the corporates and states shows the incompetency of the present environmental laws¹. Due to this many environmental activists and the expert have come together in the movement to add ecocide as the 5th crime against peace in the Rome statute of the ICC.²

The Independent Expert Panel (IEP) convened by Stop Ecocide International (2021) proposed a definition for “ecocide” to be added to (Article 8(2)(b)(iv)) of the Rome Statute. The IEP, defines 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*” which is limited to, “widespread, long-term and severe damage” caused during international armed conflicts.

Several countries like France, Belgium and others have begun criminalizing the domestically massive environmental harm. In contrast, support for ecocide laws often comes from states facing acute environmental threats (small island nations like Vanuatu, Fiji, the Maldives, and war-affected Ukraine). However, major industrial powers (US, UK, EU states) remain cautious. Their reluctance reflects legal and political barriers like debates over the definition’s vagueness, conflicts with property/business rights, evidentiary difficulties, and concerns about hindering economic development.

For India, obstacles include constitutional divisions of power (environment is concurrent subject), debates related to the principle of *mens rea* and strict liability³, and weak enforcement of existing environmental laws (e.g. only 39 convictions out of 1,737 pollution cases in the year 2019 to 2021). The government has even proposed *decriminalizing* some environmental offences in favor of higher fines, signaling political sensitivity to criminal sanctions.⁴

This article mainly focuses and analyses these factors in depth. It reviews recent Indian legislative developments, judicial actions on environmental harm, and compares international

¹ Mark Allan Gray, ‘The International Crime of Ecocide’ (1996) 26(2) *California Western International Law Journal* 215 <https://heinonline.org/HOL/P?h=hein.journals/calwi26&i=227> accessed 25 March 2026.

² Dharendra Singh Yadav, ‘White Collar Crime: Corporate Criminal Liability’ (2022) 5 *International Journal of Law Management & Humanities* 459 <https://heinonline.org/HOL/P?h=hein.journals/ijlmhs17&i=445> accessed 25 March 2026.

³ M C Mehta v Union of India (Oleum Gas Leak Case) (1987) 1 SCC 395.

⁴ Vellore Citizens Welfare Forum v Union of India (1996) 5 SCC 647.

efforts and we conclude with policy recommendations for India on ecocide legislation.

“Saving our environment is not an option; it is a necessity”.

What is Ecocide?

Ecocide is derived from the Latin verb *caedere*, which means to kill, and the Greek term "*oikos*," which means home. In literal terms, it refers to the devastation of Earth's common habitat for humans and other inhabitants.

The phrase "ecocide" first appeared in the 1970s as a result of international outrage over the US's extensive use of chemicals and the devastation of local crops and forests during the Vietnam War. However, Vietnam was the first nation to outlaw ecocide in 1990, classifying it as a crime against humanity. Several nations, including Belarus, Russia, and Ukraine, whose natural ecosystems were affected by radioactive radiation from the 1986 Chernobyl accident, passed national legislation against ecocide in the ensuing decades. Ecuador, Chile, France, and Belgium are among the other nations that have outlawed ecocide. Furthermore, comparable regional ecocide legislation measures are presently under consideration in Spain's Catalonia area, Scotland, the Netherlands, Mexico, and other countries.

II. EXISTING FRAMEWORK IN INTERNATIONAL CRIMINAL LAW:

The foundational instrument which governs the international criminal law is the Rome Statute (1998, enforced in 2002) of the International Criminal Court and it defines the four main core international crimes namely, genocide, crimes against humanity, war crimes and aggression⁵ under the ICC (International Criminal Court) jurisdiction which is established for the purpose of prosecution of individuals for the most serious crimes of international concern.

1. Genocide (Article 6)

For the purpose of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;

⁵ *Rome Statute of the International Criminal Court* (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3.

(e) Forcibly transferring children of the group to another group.⁶

Genocide in ecological dimension

Rather than being acknowledged as an independent form of harm, environmental degradation holds derivative and contingent status within the framework of Article 6 of the Rome Statute of the ICC. Only when it falls within the category of “conditions of life likely to bring about physical destruction” of a protected group does it become legally significant⁷. This means the environmental acts, such as contaminating the water systems, destroying subsistence habitats or forcing ecological displacement, are only prosecuted when they serve as intentional methods of group eradication rather than just as damaging or careless behavior.

The International Criminal Tribunal for Rwanda's jurisprudence, especially in *Prosecutor v. Akayesu*, reaffirms that *dolus specialis*, a heightened intent threshold that necessitates unambiguous proof that the offender intended to destroy a protected group as such, distinguishes genocide. Therefore, unless it is clearly used as a weapon against a particular group, even systematic or catastrophic environmental degradation—regardless of how predictable its human impact is—does not qualify as genocide. As a result, there is a doctrinal imbalance: while the law can punish specific acts of ecological violence, it is structurally unable to deal with widespread, extensive environmental damage caused by corporate activity, governmental policies, or developmental goals.

Furthermore, ecological harm is frequently indirect, cumulative, and temporally protracted, making it challenging to demonstrate a clear causal and purposeful nexus with group loss. As a result, the requirement to prove intent through environmental methods presents major evidentiary challenges. As a result, there is a normative blind spot in international criminal law where ecosystems' inherent integrity is not given independent legal legitimacy and the environment is only instrumentally protected—valued inasmuch as it contributes to human survival. This restriction not only limits the scope of genocide law's application, but it also highlights how inadequate current legal classifications are for dealing with modern forms of harm, such as environmental degradation that may endanger communities' survival without meeting the strict criteria of genocidal intent.

2. Crimes against humanity (Article 7)

For the purpose of this Statute, "crime against humanity" means any of the following acts when

⁶ United Nations, 'Rome Statute of the International Criminal Court' (17 July 1998, entered into force 1 July 2002) <https://www.ohchr.org/en/instruments-mechanisms/instruments/rome-statute-international-criminal-court> accessed 26 March 2026.

⁷ *Rome Statute* art 6

committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health⁸.

Article 7 in environmental aspect:

Although environmental devastation is not specifically listed as a crime against humanity under Article 7 of the Rome Statute of the International Criminal Court, it may be indirectly included in existing categories if its impact on people is sufficiently serious and targeted⁹. Large-scale ecological damage, in particular, may be classified as "other cruel crimes" if it purposefully causes severe hurt or suffering that is akin to specified acts like torture or eradication. This criterion may be met, for example, if intentional contamination of air or water sources causes widespread disease, displacement, or deprivation of essential living circumstances, as long as it is a part of a systematic or widespread attack against a civilian population.

⁸ United Nations, 'Rome Statute of the International Criminal Court' (17 July 1998, entered into force 1 July 2002) <https://www.ohchr.org/en/instruments-mechanisms/instruments/rome-statute-international-criminal-court> accessed 26 March 2026.

⁹ *Rome Statute* art 7

Similar to this, when environmental harm is used in a discriminatory way—for example, by selectively destroying land, forests, or natural resources that a specific ethnic, racial, or indigenous group depends on—it may be considered persecution because it denies them their fundamental rights on illegal grounds. Nonetheless, a stringent linkage requirement is imposed by the legal framework: the environmental crime must be clearly connected to human suffering and integrated into a larger pattern of attacks against people. Because the emphasis is still on human victimization rather than actual ecological harm, this poses a serious doctrinal limitation.

Therefore, unless there is a clear intent to harm a civilian population or discriminate against a protected group, widespread but indiscriminate or economically motivated forms of environmental destruction, such as deforestation, industrial pollution, or oil spills, do not qualify as crimes against humanity. This restriction highlights the provision's essentially anthropocentric perspective, whereby environmental injury is only legally cognizable inasmuch as it results in extreme human suffering, exempting significant ecological harm from international criminal culpability.

3. War crimes (Article 8)

1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

2. For the purpose of this Statute, "war crimes" means:

(a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

(b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

(c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:

(d) Paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

(e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

(f) Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.

3. Nothing in paragraph 2 (c) and (e) shall affect the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means¹⁰.

Limitations with respect to environment:

Because of a number of structural constraints that significantly limit its applicability, the environmental protection found in Article 8(2)(b)(iv) of the Rome Statute of the International Criminal Court is frequently seen as normatively significant but practically weak¹¹.

First, the clause only applies to international armed conflicts, which leaves out the great majority of environmental damage that takes place during times of peace, like resource exploitation, industrial pollution, and deforestation. Because the legislation only steps in during extraordinary wartime situations rather than during regular times when environmental deterioration is most prevalent, this temporal restriction results in a significant regulatory gap.

Second, a very high evidential bar is established by the requirement that damage be "widespread, long-term, and serious," with all three requirements having to be met collectively. Given the complicated, diffuse, and frequently delayed character of environmental injury, it is very challenging to establish responsibility because these phrases lack a clear legal definition and have been interpreted conservatively.

Third, the clause includes a proportionality test, which demands that the estimated environmental harm be manifestly disproportionate to the anticipated direct and tangible military advantage. Ecological concerns are subordinated to strategic considerations as a result of this subjective balancing process, which effectively permits environmental degradation to be

¹⁰ United Nations, 'Rome Statute of the International Criminal Court' (17 July 1998, entered into force 1 July 2002) <https://www.ohchr.org/en/instruments-mechanisms/instruments/rome-statute-international-criminal-court> accessed 26 March 2026.

¹¹ *Rome Statute* art 8(2)(b)(iv).

legally justified if it is presented as militarily required.

Lastly, despite the provision's existence, it has rarely been used or prosecuted in actual cases before the International Criminal Court. This is due to both evidentiary challenges and a general lack of institutional and political resolve to pursue such cases. When taken as a whole, these limitations make the provision essentially symbolic rather than functional, which limits its ability to remedy actual environmental harm and highlights the larger shortcomings of international criminal law in addressing ecological degradation.

4. Aggression (Article 8bis):

This article defines the crime of aggression as "the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations."

The act of aggression means "the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations."

These acts can include, among others, invasion, military occupation, and annexation by the use of force, blockade by the ports or coasts.

Aggression in ecological perspective:

The illegal use of armed force by a State against the sovereignty, territorial integrity, or political independence of another State is essentially what constitutes the crime of aggression under Article 8 bis. According to this framework, environmental damage only manifests as an incidental or collateral effect of aggressive actions, such as widespread bombing, invasion, or occupation, which may lead to pollution, long-term ecological deterioration, or ecosystem annihilation. Nevertheless, such harm is not separately acknowledged as a legally significant harm under the notion of aggression.

The question of whether the use of force itself is a clear breach of the United Nations Charter continues to be the main focus of the legal investigation, rather than the type, scope, or consequences of environmental damage brought about throughout the operation. As a result, even serious ecological harm, such as the destruction of vital habitats, oil spills during military operations, or the ruin of natural resources does not change the crime's legal definition or result in additional punishment under this clause. This is indicative of a state-centric and sovereignty-oriented approach, where the stability of the international order rather than environmental

preservation is the main protected interest.

Because of this, environmental factors continue to be legally invisible within the doctrine of aggression, which exacerbates the larger gap in international criminal law where traditional concerns of unlawful force and interstate relations take precedence over ecological harm, even when it is large-scale and transboundary.

III. CORE LEGAL GAP: ENVIRONMENTAL PROTECTION IN THE ROME STATUTE

1. Limited recognition

Environmental harm is only partially acknowledged in the Rome Statute of the International Criminal Court; it is only specifically mentioned in the war crimes clause of Article 8. This limited location indicates that environmental conservation is viewed as an auxiliary concern within the law of armed conflict rather than as a separate legal interest. Environmental harm must be obliquely classified into human-centered categories because none of the main crimes like genocide, crimes against humanity, or aggression recognize ecological degradation as a separate crime. Because of this, even widespread environmental destruction lacks a specific normative framework, revealing a structural vacuum where the seriousness of ecological harm is not matched by criminal liability.

2. Armed conflict restriction

The Statute's primary drawback is that it only makes environmental injury legally significant in situations involving armed conflict, so omitting the vast majority of environmental harm that takes place during times of peace. Modern ecological crises, like industrial catastrophes, deforestation, extractive exploitation, and climate change, are usually caused by corporate behavior, state policies, or developmental initiatives, none of which are classified as war crimes. Due to this temporal restriction, there is a substantial gap between legal coverage and actual harm because the law only steps in during extraordinary wartime circumstances and says very nothing about the systemic and everyday processes that lead to the greatest environmental deterioration in the world.

3. High threshold for evidence

The Statute requires that environmental damage be simultaneously "widespread, long-term, and severe," imposing a strict evidentiary standard even within its narrow scope. Because they lack clear legal definitions and provide for a great deal of space for restricted interpretation, these criteria are intrinsically ambiguous and cumulatively demanding. Given the complicated, diffuse, and frequently delayed nature of ecological damage, showing that environmental harm

satisfies all three requirements while simultaneously establishing purpose and awareness presents significant legal and scientific hurdles. Because so few real-world scenarios can meet such strict standards, this high threshold has rendered the provision essentially ineffective.

4. Anthropocentric Perspective

The Rome Statute is fundamentally anthropocentric, meaning that environmental degradation is only legally recognized when it results in human suffering or victimization. As a result, the environment is valued more as a resource required for human life than as an object of inherent value. Therefore, ecological degradation that does not immediately or directly affect human populations such as habitat destruction, biodiversity loss, or ecosystem collapse remains exempt from criminal culpability. The necessity for a more eco-centric framework in international criminal law is reinforced by this approach, which not only restricts the scope of current legal measures but also highlights a deeper conceptual gap where nature itself is excluded as a subject of protection.

- There are growing requests to designate ecocide as a fifth international crime due to the Rome Statute of the International Criminal Court's shortcomings, which include its limited scope, emphasis on armed conflict, and high evidence thresholds. The majority of environmental harm, which usually happens during times of calm and without the specific intent required by present crimes, is not addressed by the current system. This results in a significant accountability vacuum, as organizations like Stop Ecocide International have pointed out.

- Ecocide seeks to get beyond these restrictions in three main ways. First, it would span the whole spectrum of ecological devastation and be applicable in both times of war and peace. Second, it would treat environmental damage as a crime in and of itself, eliminating the need to connect it to discriminating purpose or human suffering. Third, rather than needing evidence of "widespread, long-term, and severe" impairment, it suggests a lower and more realistic threshold that concentrates on significant ecological harm.

- In general, acknowledging ecocide would bring international criminal law into line with present environmental realities and guarantee accountability for widespread ecological devastation that is currently not subject to legal examination.

IV. INTERNATIONAL CONTEXT (COMPARATIVE ANALYSIS)

Ecocide is recognized as a criminal offence in at least 10- 15 countries which include Armenia, Belgium, France, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Ukraine, Uzbekistan, and Vietnam. Also, countries like Italy, Brazil, Scotland and others are proposing

legislations to declare ecocide as a crime. There is a global campaign seeking to include ecocide as a crime under the International Criminal Court (ICC), similar to genocide.¹²

Why ecocide is criminalized?

- **France Ecocide Law:**

There is no general offense for the most serious environmental infractions, despite the fact that French environmental criminal law has a large number of offenses (about 2000). As a result, only sectoral and dispersed regulations are used to penalize environmental violations, making the oppressive system hard to understand and confusing for both practitioners and the population who are directly impacted by the laws safeguarding their natural environment.

Harmonizing the current regulations and harshly penalizing the most egregious environmental violations appear to be essential. In this regard, the "Citizens' Climate Convention" proposed in January 2020 the passage of a law that would shield ecosystems from deterioration and destruction by imposing financial and legal penalties on those who violate them through the creation of a new crime known as "ecocide."

By statute of August 22, 2021, the French Environmental Code added the "ecocide" offense as a separate offense. "Ecocide" is an intentional offense, in contrast to the majority of pollution offenses under French law, which do not require intentional behavior. It necessitates the proof of "severely damaging and enduring impacts" on health, flora, fauna, or the quality of air, soil, or water (legally defined as likely lasting seven years or more).

Article L.231-3 carries sentences of up to 10 years in prison, and Article 296 requires the government to report back to parliament within a year on its actions supporting the recognition of ecocide as a crime that can be tried by an international criminal court and carry a fine of €4.5 million for individuals and €22.5 million for legal persons, or up to ten times the benefit derived from the offense. Since its adoption, the term "ecocide" has been used in a number of criminal complaints; some of these have resulted in judicial investigations; however, no court rulings have yet been made. The first ecocide-related criminal investigations were place in the Grézieu-la-Varenne hazardous contamination (2019) case^{13, 14}

¹² Stop Ecocide International, 'Legal Definition of Ecocide' (2021) <https://www.stopecocide.earth/legal-definition> accessed 27 March 2026

¹³ Freshfields Bruckhaus Deringer LLP, 'Ecocide: Out of the Woods? Update from Europe and Beyond' (25 June 2024) *Freshfields Risk and Compliance Blog* <https://riskandcompliance.freshfields.com/post/102jay8/ecocide-out-of-the-woods-update-from-europe-and-beyond> accessed 27 March 2026.

¹⁴ Navacelle, 'The Creation of the Crime of Ecocide in French Law Unleashes Passions' (14 July 2021) <https://navacelle.law/the-creation-of-the-crime-of-ecocide-in-french-law-unleashes-passions/> accessed 27 March 2026.

- **Russia:**

Arguments in support of making ecocide a crime on a worldwide level heavily rely on Russia's experience. Prior to criminalization, Russia's environmental administration was affected by the legacy of the Soviet era, when rapid industrialization caused significant ecological devastation, including disasters like the Chernobyl accident. Significant ecological damage carried limited criminal penalties, and rules were primarily used to safeguard the environment. There was no unique legal framework addressing catastrophic environmental devastation, and enforcement practices were insufficient.

Following criminalization, ecocide was introduced to Russia's Criminal Code in 1996 under Article 358, which defines it as acts that have the potential to cause an ecological disaster, such as the widespread destruction of fauna and flora or the poisoning of water or air. This marked a significant shift in standards by seeing environmental destruction as a serious crime on par with crimes against humanity. The Rome Statute of the International Criminal Court does not yet contain ecocide, but the bill aimed to avert serious environmental harm and symbolically bring Russia into accordance with emerging international environmental norms.

However, post-criminalization practice reveals important shortcomings. Due in large part to unclear legal standards such as "ecological catastrophe" and a lack of political will, there have been no past convictions and very little enforcement. In the 2021 Crimea water blockade case, for example, Russia accused Ukraine of ecocide on the grounds that the ecosystem had been affected by water supply limitations. Despite its significance, this case was politically contentious and lacked a clear judicial decision, highlighting the challenges in effectively implementing the law.

Despite these disadvantages, there are still significant benefits to having such a legislation. It creates a moral and legal recognition of environmental degradation as a global issue, provides a deterrent framework against catastrophic ecological harm, and establishes the foundation for future legal development. Russia's experience demonstrates that criminalization is a crucial first step even though it is insufficient on its own. It bolsters the argument that ecocide should be defined more precisely and enforced through international legislation in order to ensure meaningful accountability.

- **Belgium**

Belgium's approach is an example of a contemporary, progressive policy that promotes the globalization of ecocide. Prior to criminalization, Belgium's environmental laws were dispersed and there was no singular crime that addressed significant ecological harm. However, Belgium

actively supported the definition of ecocide and even brought the matter before the International Criminal Court as a result of increased environmental concerns and activism at international forums.

Belgium was the first EU nation to define ecocide as the deliberate commission of criminal crimes that result in "severe, substantial, and long-term" environmental destruction in its 2024 Criminal Code.

Strong accountability systems are demonstrated by the statute, which applies to both individuals and organizations and carries fines and punishments of up to 20 years in prison. Belgian law is more stringent and more in line with international legal definitions than Russian law, while being restricted to federal jurisdiction and covering only the most serious cases. The Act is intended to address significant harms like large-scale oil spills and corporate environmental destruction, but because it is new, there aren't any notable case laws yet.

Among the many advantages of this law are increased deterrence, more corporate actor accountability, and a clear link between local and international criminal law norms.

V. POSITION IN INDIA

There is currently no written law in India that expressly acknowledges or punishes ecocide as a separate criminal offense. Nonetheless, a foundation for environmental protection is provided by the Constitution, court rulings, and a number of environmental laws. Courts have used these provisions to protect ecosystems, impose culpability for environmental destruction, and broaden the scope of environmental rights and duties, even if they are not presented as "ecocide laws."

Fundamental rights that are enforceable in court are guaranteed by Part III of the Constitution. The Supreme Court has consistently ruled that the right to a pollution-free environment is part of the right to life under Article 21. The Court has made it clear that having access to clean air and water is essential to living a dignified life.

Therefore, under Article 32, a person may immediately petition the Supreme Court for appropriate remedies in the event that an act endangers or degrades the quality of life by contaminating water or air.

Two important constitutional directions support these rights. The State is required by Article 48A (Directive Principles of State Policy) to preserve the nation's forests, wildlife, and environment¹⁵. In a same vein, each citizen is required under Article 51A(g) (Fundamental

¹⁵ Shoronya Banerjee, 'Ecocide Laws: The Need of the Hour' (iPleaders, 29 June 2021) <https://blog.ipleaders.in/ecocide-laws-the-need-of-the-hour/> accessed 26 March 2026.

Duties) "to safeguard and improve the natural environment including forests, lakes, rivers, and animals, and to have compassion for living creatures." Together, these clauses create a duty for environmental stewardship on the part of both the state and the people.

A major legislative step was made on December 5, 2025, when Sujeet Kumar, MP (Bharatiya Janata Party), filed a Private Member's Bill in the Rajya Sabha called the Ecocide (Prevention and Accountability) Bill, 2025. The Bill aims to make ecocide illegal under Indian law for the first time. Ecocide is defined as "any unlawful or wanton act or omission, undertaken with knowledge of substantial likelihood of severe, widespread or long-term damage to the environment, including destruction to ecosystems, biodiversity, and natural resources."¹⁶

Both individuals and corporations would be subject to the proposed law, which would impose severe financial penalties, a minimum ten-year prison sentence, and statutory responsibilities for community reparations and ecosystem restoration. If passed, the measure will put India in line with nations that have previously included ecocide or similar crimes in their domestic criminal codes, like Italy, the Netherlands, Scotland, Argentina, and French Polynesia. The main justification offered by the Bill's supporters for going beyond civil and regulatory remedies to criminal liability is regulatory shortcomings in situations like the Dehing Patkai mining controversy.

A wide range of laws, such as the following, further support India's larger commitment to environmental protection:

- The 1974 Water (Prevention and Control of Pollution) Act¹⁷
- The 1981 Air (Prevention and Control of Pollution) Act¹⁸
- The 1986 Environment (Protection) Act
- The 1972 Wildlife (Protection) Act The 1980 Forest (Conservation) Act
- The 2010 National Green Tribunal Act

These laws, together with landmark Supreme Court judgments, form the existing legal architecture against large-scale environmental destruction.

The Supreme Court established the concept of absolute liability in **M.C. Mehta v. Union of**

¹⁶ Stop Ecocide, 'India: Ecocide Bill Introduced in Parliament' (Stop Ecocide International, 2025) <https://www.stopecocide.earth/bn-2025/india-ecocide-bill-introduced-in-parliament> accessed 27 March 2026

¹⁷ Ecocide Laws: The Need of the Hour' Journal of Advances and Scholarly Researches in Allied Education (JASRAE) <https://ignited.in/index.php/jasrae/article/view/14593/28977> accessed 27 March 2026.

¹⁸ Ishaan Banerjee and Pruthvi Ramkanta Hegde, 'An Overview of the Air (Prevention and Control of Air Pollution) Act, 1981' (iPleaders, 26 February 2024) <https://blog.ipleaders.in/an-overview-of-the-air-prevention-and-control-of-air-pollution-act-19/> accessed 27 March 2026.

India (1987) (Oleum Gas Leak Case)¹⁹. Without the advantage of the previous strict liability rule's limitations, industries involved in hazardous operations were held rigorously and absolutely accountable for any damages produced. This judgment significantly strengthened industrial accountability following the **Bhopal Gas Tragedy**.

The Court broadened the concept of "forest" in **T.N. Godavarman Thirumulpad v. Union of India (1997)**²⁰ to encompass any regions that fit the term's dictionary definition, regardless of official categorization. In order to stop widespread deforestation and unauthorized land usage, it issued ongoing mandamus to monitor and enforce forest protection legislation.

Both the advantages and disadvantages of the existing framework are demonstrated by the **Dehing Patkai mining case (2020)**. The National Green Tribunal ordered a total ban and imposed a penalty of ₹43.25 crore for illegal coal mining by a subsidiary of Coal India Limited inside the ecologically fragile Dehing Patkai National Park in Assam without the necessary approvals under the Forest (Conservation) Act, 1980. The case, which also made it to the Supreme Court, showed that financial fines by themselves frequently don't work as deterrents and exposed significant enforcement loopholes, particularly when state-owned enterprises are involved. It is often used as a strong justification for the creation of a particular ecocide crime that can impose criminal penalties on decision-makers.

Vellore Citizens' Welfare Forum v. Union of India (1996)²¹: This case established the Polluter Pays Principle, which requires individuals who cause pollution to pay for its mitigation. The Precautionary Principle, which emphasizes that authorities must anticipate and prevent environmental harm rather than just responding after damage has happened, was also acknowledged by the Court. The lawsuit concerned the release of hazardous chemicals into nearby water bodies by Tamil Nadu tanneries, which resulted in serious environmental damage.

VI. CHALLENGES IN ROGNIZING ECOCIDE

1. Temporal Displacement of Environmental Harm

The time displacement of environmental damage is a crucially neglected feature of India's punishment of ecocide. Environmental harm often occurs in India as a slow, accumulating process over long periods of time, unlike other traditional crimes that happen at discrete, identifiable events. Due to the lack of a clear "site of occurrence," environmental damage in India often takes the form of problems like groundwater depletion, land degradation, and

¹⁹ *MC Mehta v Union of India* (1987) 1 SCC 395

²⁰ *TN Godavarman Thirumulpad v Union of India* (1997) 2 SCC 267

²¹ *Vellore Citizens' Welfare Forum v Union of India* (1996) 5 SCC 647.

biodiversity reduction, making it difficult to assign blame in these situations. The traditional concept of criminal law, which is based on the idea of establishing guilt and blame at a given time, is fundamentally at odds with the absence of a clear "moment of occurrence" in environmental damage in India. Unresolved questions about whether responsibility for ecocide should be assessed at the time of the initial ecocide act, when the damage is irreversible, or when the evidence of environmental collapse becomes evident are brought up by India's lack of a clear "point of occurrence" for environmental damage.

2. Epistemic Conflict Between Ecological Uncertainty and Legal Certainty

The epistemic conflict between criminal law and ecological studies is another, as yet unresolved, issue. Certain objective standards, such as "severe," "widespread," or "long-term" harm, are required by the structure of criminal statutes pertaining to ecocide and must be shown "beyond a reasonable doubt." However, the Indian environment is characterized by a certain amount of fluctuation and unpredictability in the field of ecological sciences. For instance, the Indian environment is affected by a number of factors that affect ecological injury, including the features of the Indian monsoon, the interdependence of Indian species, and the diversity of ecological damage in different parts of India. As a result, there are no universal, objective criteria for assessing environmental harm. In this case, the conflict between ecological sciences and criminal laws arises from the fact that ecological sciences operate in an uncertain environment, whereas criminal laws must maintain a certain level of accuracy and certainty. However, a significant barrier to the creation and application of ecocide laws in India is the conflict between criminal law and ecological sciences, which has not been examined in recent research.

3. Algorithmic and Indirect Environmental Harm

The rise of algorithmic and indirect environmental harm is another issue that has not received enough attention in relation to India's prosecution of ecocide. It is important to emphasize that artificial intelligence, different computer systems, and decision-making processes are often used in India and abroad to affect decisions pertaining to environmental challenges and other key factors. Furthermore, corporate social responsibility and environmental, social, and governance policies use data-driven reporting, which might not accurately reflect the full scope of environmental harm and destruction. It's also crucial to note that environmental harm in these circumstances typically results from a confluence of several processes and factors rather than being directly caused. It is difficult to address environmental damage in these situations since Indian criminal law is based on the concepts of personal intent and direct causation. It is crucial

to acknowledge that there is a significant doctrinal gap concerning the legality of ecocrime in India, which makes it more difficult to handle environmental damage in situations involving algorithmic and indirect ecological impact. Although the issue of environmental harm in India is crucial to the expansion of the digital economy, it is still largely ignored in the nation's legal and environmental studies.

VII. RECOMMENDATIONS

International criminal law must be strengthened through practical reforms in order to effectively handle the growing threat of widespread environmental harm. First, ecocide must be formally included to the list of international crimes under the Rome Statute of the International Criminal Court, along with genocide, crimes against humanity, war crimes, and aggression. This inclusion would guarantee global accountability by elevating environmental harm to the status of a fundamental international concern. To prevent uncertainty and guarantee uniform application across countries, the legislation must define clear legal thresholds such "severe, widespread, or long-term injury."

Furthermore, as multinational firms are frequently the main perpetrators of environmental degradation, the framework must include corporate accountability. While corporate accountability reflects contemporary economic realities, limiting liability to individuals creates enforcement gaps. Given the transnational nature of environmental harm, it is also necessary to reinforce international collaboration mechanisms, such as cross-border investigations, evidence exchange, and judgement enforcement.

The creation of ecological baselines and environmental data infrastructure is an important but frequently disregarded reform. The lack of uniform baseline data makes it difficult to demonstrate the magnitude of environmental harm, which is one of the main obstacles in prosecuting ecocide. Thus, the development of scientifically validated ecological benchmarks, such as pre-damage environmental conditions, biodiversity indices, and climate effect indicators, must be required under international law. Coordinated efforts with international organizations like the United Nations Environment Programme can accomplish this, allowing for trustworthy data collecting, monitoring, and verification. In addition to improving openness, early detection of ecological harm, and preventive governance, the establishment of a worldwide environmental data infrastructure will raise evidentiary standards in ecocide cases.

When taken as a whole, these suggestions turn ecocide from a symbolic idea into a quantifiable, enforceable, and scientifically supported international crime, guaranteeing that accountability is both practically and legally possible.

VIII. CONCLUSION

It is imperative that ecocide be recognized as an international crime. The current framework of international law is insufficient to handle harms that endanger not just ecosystems but also human survival as environmental destruction accelerates due to industrial growth, climate change, and resource extraction. Large-scale environmental destruction frequently goes unpunished until it overlaps with traditional crimes, which is why ecocide is not included in the Rome Statute of the International Criminal Court.

By incorporating ecocide into international criminal law, environmental preservation and justice would become inextricably linked, guaranteeing that those who cause catastrophic ecological harm are held accountable before the world community. Additionally, it would mark a change in the legal system's goals from one that is mostly focused on human conflict and territorial sovereignty to one that acknowledges the intrinsic value of the environment as vital to life and future generations.

In the end, acknowledging ecocide is an essential evolution of international law in response to current global concerns rather than just a legal reform. Without this acknowledgment, the law runs the risk of losing touch with reality and being unable to deal with one of the most urgent problems of our day.
