

Criminological Analysis of Crimes Against the Environment (Ecocide) With a Legal Approach

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Abstract

This article examines the concept of ecocide as a serious crime in the context of global environmental protection. Amidst intensifying environmental concerns, the discourse on establishing ecocide as an international criminal offence is gaining momentum. Abstract Implications The potential challenges and benefits of adopting this transformative perspective Ecocide refers to widespread and irreversible environmental damage caused primarily by human activities. This article examines the rationale behind the designation of ecocide as a serious crime and emphasizes the need to hold individuals, companies and even nations accountable for actions that lead to widespread environmental destruction. By legally classifying ecocides as a crime, the international community can provide a more compelling deterrent to actions that undermine the global ecological balance. However, the global implementation of ecocide as a crime faces significant obstacles. This article addresses the challenges of defining the scope of ecocide, distinguishing it from existing environmental crimes, and establishing generally applicable prosecution criteria. It also examines the complexities of enforcement given the diversity of geopolitical contexts and varying degrees of environmental impact around the world. The potential benefits of recognizing ecocide as a crime are profound. It could trigger a paradigm shift in public and corporate consciousness, fostering a sense of responsibility and encouraging sustainable practices. The prospect of legal consequences may motivate innovative approaches to preventing environmental damage and facilitating restoration efforts. It could also strengthen the global commitment to environmental protection by placing it alongside other serious international crimes.

Introduction

Ecicide, often referred to as a serious crime against the environment, is a concept that has received considerable attention and recognition in recent years. The term describes the deliberate and widespread destruction of ecosystems and the environment that results in severe and long-term harm to the planet and its inhabitants. Just as genocide is a crime against humanity, ecocide is a crime against the Earth itself. This introduction examines the depth of ecocide, its consequences, and the growing global movement to recognize and prevent it as a crime on par with other international crimes.

Crimes against the environment, known as ecocide, are one of the serious challenges of the 21st century. These crimes not only lead to the destruction of natural resources and ecosystems, but also have profound and lasting impacts on the lives of humans and other living beings. With the increasing global awareness of the importance of environmental protection and the negative effects of climate change, the need for criminological analysis of these crimes is felt more than ever.

Criminological analysis of crimes against the environment, with a legal approach, examines the various dimensions of this phenomenon. This analysis includes identifying the social, economic, and cultural factors that lead to the occurrence of these crimes. Also, examining national and international laws and regulations in the field of environmental protection and how to deal with violators are other important aspects of this issue.

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In this article, we will try to reach a deeper understanding of the challenges and legal solutions in this field by examining key concepts related to ecocide and analyzing real cases of these crimes. It is hoped that this research can help strengthen the legal and criminological foundations in the field of environmental protection and provide effective solutions to combat crimes against nature.

Recognizing ecocide as a serious crime is a response to the increasingly urgent need to protect our planet. The environmental crises we face, such as climate change, habitat destruction and species extinction, are reaching critical levels. The consequences of ecocide are not limited to environmental destruction. They have profound socio-economic and human consequences. The effects of ecocide can exacerbate poverty, displace communities, and lead to conflict and instability, turning it into a crime that affects the entire global community. It has been on the rise in recent years.

A movement to establish ecocide as an international crime by seeking its inclusion in the Rome Statute of the International Criminal Court recognizes ecocide as a crime on a par with genocide, war crimes, and crimes against humanity to hold states accountable for their actions and to prevent future acts of environmental destruction. Ecocide is a matter of deep concern from a global perspective that transcends national borders. The destruction of ecosystems and environmental damage often have far-reaching consequences that affect not only the country in which they occur but also neighboring regions and the entire planet. [1][2] As a result, addressing ecocide is a global imperative. Many international organizations, environmental activists, and legal experts support the inclusion of ecocide as an international crime, making it a matter of international law and global cooperation. [3], [5]

In Indonesia, the issue of ecocide is of particular importance due to its rich biodiversity and vast natural resources. Indonesia is home to one of the world's largest rainforests, numerous unique and endangered species, and a complex network of ecosystems. However, it has also experienced significant environmental challenges, including deforestation, illegal logging for palm oil production, and mining, which have resulted in widespread environmental damage. The impact of ecocide in Indonesia is not limited to environmental degradation, but also has serious social and economic consequences, including the displacement of indigenous communities, loss of livelihoods, and adverse health effects from pollution. In addition, Indonesia's vulnerability to climate change, such as rising sea levels, poses a significant threat to coastal communities and their infrastructure. Addressing ecocide in Indonesia requires a multifaceted approach that includes both domestic policies and international cooperation. The Indonesian government has made efforts to combat deforestation and illegal logging, but there is still much work to be done to protect the country's unique and vital ecosystems.

2. Theoretical foundations

This study focuses on emphasizing ecocide as a major international crime and the need for global cooperation in environmental protection. The approach emphasizes that ecocide, characterized by large-scale environmental destruction, transcends national borders and affects the entire planet and its inhabitants. Considerable emphasis is placed on recognizing ecocide as a crime with global consequences, supporting legal frameworks to address it, and raising awareness of the need for collective action in environmental protection on a global scale. This approach acknowledges the complexities and difficulties in defining and prosecuting ecocide, while at the same time emphasizing the urgency of the issue. It also calls for continued cooperation between countries, organizations, and individuals to effectively combat ecocide. By framing the discussion in this way, it highlights the vital role of international cooperation in combating ecocide as a critical challenge for protecting the global environment, ultimately working towards a sustainable and environmentally responsible future for our planet and all its inhabitants.

3. Ecocide as a Serious Crime: Global Discourse and Limitations

Ecocide as a serious crime has indeed become an important topic in the global discourse on environmental protection and sustainability. However, while the need to address ecocide is recognized, there are also limitations and challenges in establishing it as an internationally recognized crime. [6][11] This discussion will address the global discourse on ecocide and the limitations associated with the concept.

.3.1. Recognizing environmental impacts

There is a growing recognition of the severe and long-term consequences of ecocide not only on the environment but also on human societies. The global debate emphasizes the interconnectedness of environmental damage with issues such as climate change, biodiversity loss, and human rights violations. The global discourse on ecocide revolves around recognizing the enormous impact that large-scale environmental degradation has on the planet. This includes not only the immediate.

Limitations and challenges

.3.4.1. Definition and scope

Ecocide means the intentional or unintentional destruction of the environment that can lead to serious harm to ecosystems, biodiversity, and human life. This concept includes activities such as extensive deforestation, severe climate pollution, and the destruction of natural habitats. Ecocide is recognized as a serious crime globally and requires urgent attention and action.

Defining ecocide precisely and gaining global acceptance for this definition is complex due to the diversity of ecocide activities, from deforestation to pollution, each with different environmental consequences. Challenges include distinguishing intent from negligence, determining the threshold for prosecution and accountability for the dynamic and multi-causal nature of environmental damage. Furthermore, the interpretation of ecocide can vary across geographical and cultural contexts, making it necessary to accommodate these differences to create a universally accepted framework. Achieving consensus on what constitutes ecocide in international law requires careful consideration of the complex causality and ethical dimensions at play, while also harmonizing diverse legal traditions and international norms. [9] [10], [11]

.3.4.2. Global discourse on ecocide

With increasing concerns about climate change and environmental degradation, a global discourse on ecocide has emerged. This discourse includes the following:

- Awareness-raising: NGOs, researchers, and environmental activists are working to raise public awareness about the consequences of ecocide. These efforts include conferences, workshops, and media campaigns.
- International law: Some countries and international organizations are developing laws and regulations to identify and punish ecocide. These laws can include legal obligations for governments and corporations.
- Social justice: The global discourse has also addressed the link between ecocide and social justice. Many vulnerable communities, especially in developing countries, are most affected by environmental degradation.

.3.4.3.. Legal and Judicial Obstacles

Establishing ecocide as an international crime requires changes to international law, which can be a time-consuming and politically contentious process. There are also questions about the jurisdiction of the International Criminal Court and how it should apply to ecocide cases, especially when states may be involved.

.3.4.4. Corporate Responsibility

Holding companies accountable for ecocide is a unique challenge. Many cases of environmental degradation are caused by companies, and determining liability and enforcement mechanisms can be complex.

.3.4.5.. Political Resistance

Attempts to recognize ecocide as a crime at the international level can encounter significant resistance from powerful countries and industries due to economic interests. This resistance often arises because many powerful countries and industries engage in activities that may unintentionally or intentionally cause widespread environmental damage, and recognizing ecocide as a crime would have legal and financial consequences for these entities.

For example, consider a powerful country with a significant oil and gas industry. This industry, which is vital to the country's economy, may engage in activities that lead to environmental damage, such as oil spills, habitat destruction, and air pollution. If ecocide were recognized as an international crime, it could lead to prosecution of the nation or its companies for ecocide acts. This could result in heavy fines, international sanctions, or restrictions on their operations, affecting their profitability and economic stability. [7][8]

Similarly, extractive industries such as mining and timber often operate in ecologically sensitive areas, leading to deforestation, habitat destruction and pollutant emissions. Recognizing ecocide as a crime means that these industries can be held legally accountable for their activities, which may result in significant penalties or the need for costly environmental remediation efforts.

3.4.6.. Enforcement and enforcement Recognizing ecocide as a crime is an important step in protecting the environment, but even with recognition, legally enforcing ecocide laws can be a complex and challenging endeavor. Several factors contribute to these challenges, including weak governance in certain areas and the interference of powerful institutions. [15][17]

For example, in countries with weak governance, legal systems may lack the capacity or resources to effectively investigate and prosecute ecocide cases. This can create an environment in which environmental crimes can occur with impunity. For example, illegal logging operations in some developing countries may destroy forests due to limited law enforcement capabilities, corruption, or inadequate regulatory oversight.

In cases involving powerful entities such as multinational corporations, enforcing ecocide laws can be difficult because these entities often have significant resources and political influence. They can use their power to resist legal action, making it challenging to hold them accountable for ecocide activities. For example, a large mining company with an international reach may operate in a region with weak governance and use legal maneuvers to avoid liability for environmental damage. Enforcement mechanisms for prosecuting ecocide cases need to address these challenges. This may require strengthening governance and legal systems in areas prone to environmental crime and establishing international cooperation mechanisms that can hold powerful institutions accountable. It is essential to ensure that the recognition of ecocide as a crime is not merely symbolic but leads to its effective enforcement, especially in cases where the risks are high and the environmental damage is severe. [17]

. 4 International legal framework on environmental crime

The international legal framework on environmental crime consists of various international agreements, conventions and mechanisms aimed at addressing environmental issues of global importance. These agreements set standards for the protection and conservation of the environment and establish mechanisms for enforcement and accountability.

Environmental crime refers to actions that intentionally or unintentionally cause damage to the environment and ecosystems. Given the growing concerns about climate change and environmental degradation, the international community has developed legal frameworks to combat these crimes. Some of the most important international documents and agreements in this field are mentioned below:

1. International Conventions and Agreements

- Convention on Biological Diversity (CBD): This convention, adopted in 1992, aims to conserve biological diversity, sustainably use natural resources and equitably share the benefits arising from genetic resources.
- Convention on Climate Change (UNFCCC): This convention, established in 1992, was developed to combat climate change and reduce greenhouse gases and requires member states to take the necessary measures to reduce the effects of climate change.
- Convention to Combat Desertification (UNCCD): This convention combats desertification and land degradation and requires member states to take the necessary measures to preserve and restore damaged lands.
- Kyoto Protocol and Paris Agreement: These agreements are designed as implementation tools to reduce greenhouse gases and combat climate change and require member states to fulfill specific commitments.

2. Human Rights and the Environment

- Universal Declaration of Human Rights (1948): This Declaration refers to human rights, but in some interpretations, the right to a healthy environment is also recognized as a human right.
- International Human Rights Conventions: Some human rights conventions, such as the Convention on the Rights of the Child and the Convention on the Rights of Women, address the relationship between human rights and the environment.

3. International Criminal Law

- International Criminal Court (ICC): Although the ICC focuses mainly on war crimes and crimes against humanity, in some cases, deliberate destruction of the environment during war can fall under its jurisdiction.

4. International Organizations and Regulatory Bodies

- United Nations: The United Nations, through its Environment Programme (UNEP) and other bodies, helps promote environmental law and policy.
- Non-Governmental Organizations (NGOs): Many non-governmental organizations (NGOs) work globally in the field of environmental protection and human rights and play an important role in monitoring the implementation of environmental laws.

4.1 Multilateral Agreements

The Kyoto Protocol is a major international environmental agreement that serves as a landmark in the international legal framework on environmental crimes. Adopted under the United Nations Framework Convention on Climate Change (UNFCCC), the Convention addresses the global challenge of climate change, primarily through limiting greenhouse gas emissions.

The Protocol sets legally binding targets and obligations for industrialized and developed countries, often referred to as Annex I countries, to reduce their greenhouse gas emissions. These emissions mainly arise from activities such as fossil fuel combustion, industrial processes and deforestation, which contribute significantly to global warming and climate change.

Key features of the Kyoto Protocol include establishing emission reduction targets for Annex I countries with the collective aim of reducing greenhouse gas emissions below 1990 levels during the commitment period.

The 2008-2012 period also introduced market-based mechanisms such as emissions trading and the Clean Development Mechanism (CDM) to facilitate cost-effective reductions in greenhouse gas emissions. It also includes a compliance mechanism to ensure that countries meet their emission reduction targets or impose penalties and sanctions for non-compliance. Annex I countries are required to regularly report emissions data and progress towards achieving their targets. The protocol also provides flexibility and adaptability, allowing countries to modify their commitments through negotiations at the periodic meetings of the treaty. While the Kyoto Protocol represents an important step in holding countries accountable for their contributions to climate change, it has faced challenges in implementation, with some countries failing to meet their targets. However, the basis for subsequent international agreements, such as the Paris Agreement, which builds on the principles and mechanisms of the Kyoto Protocol in the ongoing fight against climate change.

4.2 International Criminal Courts

The International Criminal Court (ICC) has jurisdiction to try crimes of environmental significance that are part of broader crimes, such as "blood timber". Individuals or entities involved in illegal logging and deforestation can be prosecuted by the ICC if it is determined that these activities are linked to crimes against humanity or war crimes. [9] [12]

4.3. Customary international law

The principle of do no harm is a long-standing example of customary international law in the environmental field. It obliges states not to cause harm to other states through their activities. For example, if a state's industrial

activities result in transboundary pollution that harms the environment in a neighboring state, it may be held accountable under this principle. [9][10]

4.4 Agreements Regional

The EU Water Framework Directive is a regional example. It sets water quality and management standards for EU Member States to protect and improve water quality across Europe. It includes provisions for reporting, monitoring compliance and enforcement, and ensuring that participating countries adhere to the agreed standards.

4.5 Enforcement mechanisms

The United Nations Convention on the Law of the Sea (UNCLOS) provides mechanisms for dispute settlement and enforcement in cases of marine pollution. It establishes the International Tribunal for the Law of the Sea, which can hear cases involving violations of the Convention, such as the illegal dumping of hazardous waste at sea. [17]

4.6. . Participation and reporting

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) requires participating countries to submit annual reports on their trade in endangered species. These reports are used to monitor compliance with the Convention and to assess the impact of trade on species conservation.

Finally, the international legal framework on environmental crime encompasses a diverse range of international instruments and agreements that aim to address a variety of environmental issues, from climate change and biodiversity conservation to marine pollution and habitat protection. It promotes global cooperation, sets legal standards for environmental protection, and provides mechanisms to hold nations and institutions accountable for environmental crimes that have international implications. These examples illustrate the breadth of the framework and mechanisms available to ensure environmental accountability and protection on a global scale.

5. Limitations

Despite the progress made in the global discourse on ecocide, there are also many challenges and limitations:

- **Lack of a comprehensive definition:** One of the greatest challenges is the lack of a comprehensive and widely accepted definition of ecocide in international law. This can hinder legal prosecution and punishment of violators.
- **Economic interests:** Many economic activities, such as natural resource extraction and industrial agriculture, can lead to environmental degradation. Short-term economic interests may take precedence over environmental protection.
- **Lack of international cooperation:** Countries may be unable to cooperate effectively in combating ecocide due to national or political interests. This can lead to the perpetuation of environmental crimes.
- **Enforcement challenges:** Even where laws and regulations exist to address ecocide, enforcement challenges such as corruption, weak judicial systems and lack of access to information can hinder the effective enforcement of these laws.

Conclusion

The study concluded that the discourse on ecocide as a serious crime underscores the urgent need for a comprehensive and integrated global approach to environmental protection. As our planet faces unprecedented challenges due to human activities, recognizing ecocide as a major crime underscores the critical importance of protecting the environment for current and future generations. This perspective supports stronger legal frameworks for international cooperation and collective responsibility to hold those responsible for activities that cause irreparable harm to ecosystems accountable. By recognizing ecocide as a serious crime, society can foster a culture of environmental care, encourage sustainable practices, and strengthen a renewed commitment to preserving the delicate balance of our planet. Ultimately, the call to criminalize ecocide acts as a powerful catalyst for a more conscientious and proactive global environmental protection movement.

The international legal framework for combating environmental crime is still developing and requires closer cooperation between states, organizations, and civil society. Given the many environmental challenges facing the world, it is essential to strengthen this framework and establish effective mechanisms for its implementation.

As a serious crime, ecocide requires urgent attention and action at the global level. The global discourse on this issue is growing, but there are also many limitations and challenges that need to be addressed. Only through international cooperation, comprehensive legislation, and increased public awareness can we combat these environmental crimes and ensure a more sustainable future for future generations.

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