

The Crime of Ecocide through Human Rights Approach

The “Universal” Right to a Healthy Environment as a Driving Force Calling for Ecocide Legislation

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The environment is often called the “silent victim of war” – the case is not different in the Russo–Ukrainian armed conflict. Since 2014, nature – home to 35% of European biodiversity and varied natural habitats – has suffered a tremendous loss in Ukraine. The war has been responsible for the emission of 33 m tonnes of CO₂, and postwar reconstruction is estimated to generate even more. Additional environmental concerns include extensive pollution, degradation of natural habitats, and species extinction. Regarding the new data, more than 2 thousand events can be considered ecocide. Ecocide is the destruction of the natural environment by deliberate or negligent human action. Transboundary environmental harm is also a pressing issue, as pollution “travels” by wind, air, and water to other countries.

Ecocide is a new yet old concept concerning severe environmental destruction. In the last decade, a debate has emerged concerning legislation, definition and enforcement. Instead of international criminal law, many believe that the solution will be the human rights approach.

Meanwhile, the right to a healthy environment, initially not included in “traditional” human rights conventions, is getting more attention worldwide and in Europe. Recently, the European Economic and Social Committee adopted an own-initiative opinion on the right to a healthy environment in the EU in the context of the war. The aim is to criminalise Russia’s actions under European law and ensure environmental protection to safeguard fundamental rights. In the paper, the author would like to focus on the parallel development of the right to a healthy environment and ecocide.

Keywords: environmental destruction at times of armed conflicts, ecocide, right to a healthy environment, human rights approach, international criminal law

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“Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.”
Rio Declaration, Principle 1

Introduction

Human history is intertwined with the destruction of the environment and the methods of environmental warfare used in armed conflicts. Traditional human rights conventions and other documents, such as the Universal Declaration of Human Rights, were accepted before the era of environmental rights. Under these circumstances, accepting widespread and severe environmental destruction as the fifth international crime seems illusory. Ecocide was already being considered in the 1970s as a result of US military action in Vietnam, however, it has not been incorporated into international law. Nowadays, because of the Russo–Ukrainian armed conflict, the regulation and implementation of ecocide have come to the fore. At the same time, the debate also concerns the perspective from which it should be regulated. First and foremost, international criminal law emerged since ecocide has always been linked to crimes against peace. However, with the declaration of the right to a healthy environment, the possibility of a new path has arisen, namely the human rights approach. The author briefly discusses the history of ecocide. Still, the main focus is on the distinction between international criminal law and the human rights approach, particularly which path is more acceptable and feasible. The author first focuses on the relationship between human rights and environmental degradation, the extent to which the full enjoyment of human rights depends on the quality of the environment, and new trends in the interpretation of human rights. The article also deals with the declaration of the right to a healthy environment, whether we can talk about its universal recognition and what developments have taken place in this direction in recent years.

The background for the study was the presentation at the War and Peace conference in the autumn of 2023, but the study focuses on recent developments given the passage of time. The research methodology relied mostly on desk research, mapping previous studies that are still relevant today, as well as recent literature. The author has endeavoured to synthesise the research findings and develop a unique viewpoint.

Human rights in the shadow of environmental destruction

The link between human well-being and environmental quality is complex and inextricable. For the full enjoyment of human rights, a healthy environment is necessary, as highlighted by several resolutions of various organisations. Also, human rights have long provided an opportunity to approach the most severe injustices from a legal perspective, for example, in the fight against discriminatory treatment and poverty. At the same time, there is a growing demand within the international

community for a similar approach to climate change, linking intergenerational equity, the rights of future generations and the right to a healthy, liveable environment.² The interface between ecocide and human rights can be approached from two angles. First, some serious acts of environmental destruction, which may fall within the concept of ecocide, lead to serious violations of human rights. The second link concerns the extent to which relevant human rights instruments, conventions, and forums can help remedy the violation of rights caused by ecocide and whether it is even possible to bring proceedings before the relevant forums on this subject.³ Environmental degradation highly influences the enjoyment of human rights, including political, social, cultural, economic and solidarity rights. The consequences for the rights to life, health, food, water, housing, and self-determination will worsen as the climate crisis intensifies. The newly emerged human rights concepts – such as the right to food, water, and adequate sanitation – are also impaired by environmental harm.⁴

In 1994 the Report on Human Rights and the Environment highlighted the direct impact of environmental degradation on the enjoyment of a range of human rights, including the right to life and health: “environmental damage has direct effects on the enjoyment of a series of human rights, such as the right to life, to health, to a satisfactory standard of living, to sufficient food, to housing, to education, to work, to culture, to non-discrimination, to dignity and the harmonious development of one’s personality, to security of person and family, to development, to peace, etc.”⁵

Already existing human rights bodies increasingly often have to deal with petitions of environmental concern. In 2019, sixteen children filed a petition alleging that Argentina, Brazil, France, Germany and Turkey violated their rights under the United Nations Convention on the Rights of the Child by making insufficient cuts to greenhouse gases and failing to encourage the world’s biggest emitters to curb carbon pollution. The UN Committee on the Rights of the Child affirmed that a state party to the Convention could be held responsible for the negative impact of its carbon emissions on the rights of children, both within and outside its territory, and countries have extraterritorial responsibilities related to carbon pollution.⁶ The Committee applied the method established by the Inter-American Court of Human Rights (IACtHR) to decide the jurisdiction of the body.⁷ In 2019, the UN Human Rights Committee concerning the International Covenant on Civil and Political Rights stated that “environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.”⁸ Furthermore, state parties should “ensure sustainable use of natural resources, develop and implement substantive

2 ADELMAN 2014: 5.

3 In details, see SZIEBIG 2021: 85–98.

4 See TAHYNE KOVÁCS 2022: 93–123.

5 KSENTINI 1994: section 248.

6 CRC/C/88/D/104/2019.

7 Sacchi, et al. v. Argentina, et al.

8 CCPR/C/GC/36 para. 62.

environmental standards, conduct environmental impact assessments and consult with relevant States about activities likely to have a significant impact on the environment, provide notification to other States concerned about natural disasters and emergencies and cooperate with them, provide appropriate access to information on environmental hazards and pay due regard to the precautionary approach.”⁹ In 2018, the Committee on Economic, Social and Cultural Rights released a similar statement concerning climate change and its effects on human rights.¹⁰

The universal right to a healthy environment

In 1987, the final report of the Brundtland Commission, *Our Common Future*, stated that “all human beings have the fundamental right to an environment adequate for their health and well-being.”¹¹ To reach sustainability, “some necessary changes in the legal framework start from the proposition that an environment adequate for health and well-being is essential for all human beings, including future generations.”¹² Most human rights treaties were adopted before the era of environmental consciousness, so treaty law does not guarantee the right to a safe and healthy environment. However, there are several non-binding instruments where the right to a healthy environment appears. Furthermore, several international conventions contain indirect references.

The right to a healthy environment exists as a component of human rights in general and the right to life specifically, as well as in the body of environmental law and connection areas, such as humanitarian law.¹³ The International Covenant on Economic, Social and Cultural Rights provides the right to the highest attainable physical and mental health standard and calls on state parties to take steps to improve all aspects of environmental and industrial hygiene.¹⁴ The Convention on the Rights of the Child provides that parties shall take appropriate measures to combat disease and malnutrition by providing adequate nutritious foods and clean drinking water, considering the dangers and risks of environmental pollution.¹⁵

9 CCPR/C/GC/36 para. 62.

10 Statement, Climate change and the International Covenant on Economic, Social and Cultural Rights.

11 *Our Common Future*, Annexe 1, 1.

12 *Our Common Future*, Annexe 1, 56 para. 76.

13 LYTTON 2000: 73.

14 Art. 12 1: “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” and 2. [...] (b) “The improvement of all aspects of environmental and industrial hygiene;”

15 Art. 24 2 (c): “To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;”

The main regional human rights conventions contain the right to a healthy environment to some extent: the African Charter of Human Rights and Peoples,¹⁶ the Arab Charter of Human Rights¹⁷ and the Protocol of San Salvador.¹⁸ In the European sphere, the preamble of the Aarhus Convention¹⁹ also refers to an adequate quality of the environment. Nevertheless, the European Convention on Human Rights, opened for signature in 1950, does not mention any environmental standards or rights. Although the greening practice of the European Court of Human Rights (ECtHR) reflects the development of environmental standards, the evolving interpretation of human rights can raise questions.²⁰ In this manner, the ECtHR interprets the already declared human rights that “can be undermined by the existence of harm to the environment and exposure to environmental risks”.²¹ These rights are the right to life (Art. 2), the Prohibition of inhuman or degrading treatment (Art. 3), the right to liberty and security (Art. 5), the right to a fair trial (Art. 6), the right to respect for private and family life and home (Art 8), the freedom of expression and the freedom to receive and impart information (Art. 10) and the protection of property (Art.1 of Protocol No. 1 to the Convention). There is an ongoing dispute about a new additional protocol to the ECtHR concerning the right to a healthy environment, which has also emerged with the growing importance of environmental considerations. The UN Human Rights Council resolution is the leading catalysator for human rights development that finally declared the universal right to a healthy environment.²² One must not forget that the declaration is a non-binding document. On the other hand, soft law has been an important source of international environmental law, often leading to the development of hard law regimes.

It is a growing question of international law whether the right to a healthy environment can be considered *erga omnes*. The right forms the necessary foundation for fully realising all other human rights because “they would become meaningless to a community unable to breathe, drink, produce food, clothing and shelter”²³

Ecocide

Ecocide is a new yet old concept of international law. The idea that the perpetrators of severe environmental harm must be punished under international criminal law is quite new, yet the concept itself has a long history. The Vietnam War acted as

16 Art. 24: “all peoples shall have the right to a general satisfactory environment favorable to their development.”

17 Art. 38: “every person has the right [...] to a healthy environment.”

18 Art. 11: “everyone shall have the right to live in a healthy environment.”

19 Preamble: “every person has the right to live in an environment adequate to his or her health and well-being.”

20 ECHR 2023: 1.

21 See FRIEDRICH 2013: 143–371.

22 A/HRC/48/L.23/Rev.1

23 GRAY 1996: 257.

a catalyst for ecocide, because, between 1961 and 1971, 73 million litres of chemicals were sprayed on enemy territory, resulting in agricultural land and plantations being destroyed and natural habitats being bulldozed. The term ecocide was first documented in 1970 when American plant biologist and bioethics professor Arthur W. Galston argued for a new international agreement to ban ecocide. Galston, then President of the Yale University Botany Institute, was one of the first to speak out against pesticides in Vietnam as early as 1966, citing their ecological and human health effects. 1972 marked a turning point in international environmental protection when the Stockholm Conference on Human Environment was organised. Former Swedish Prime Minister Olof Palme (1969–1976; 1982–1986) explicitly referred to the USA ecological warfare as ecocide, which he sharply referred to as an “outrage”.²⁴ Following the conference, the Working Group on Environmental Crimes was set up in 1972 and has been supported by several NGOs. Professor Richard A. Falk, an expert on international law and war crimes, published a draft of the Ecocide Convention in 1973 – focusing specifically on wartime ecocide.²⁵ Subsequently, between 1984 and 1996, ecocide was also on the agenda of the International Law Commission, which dealt with the issue of serious environmental damage as a possible crime against peace at the time. The modern history of ecocide goes back to Pauline Helène “Polly” Higgins, a Scottish international lawyer, author and environmental lobbyist, who submitted a proposal to the United Nations in April 2010 to initiate the adoption of an international crime of ecocide. In her proposal, an amendment to the Rome Statute was issued. Since then, Higgins’ organisation, the “Stop Ecocide Foundation”, has been working tirelessly for international acceptance of ecocide and the “official” definition of the crime was established by an independent expert panel: “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.”²⁶

Ecocide and the human rights approach

Saad Alfarargi, Special Rapporteur on the right to development, “warned that climate change was a global human rights threat multiplier”.²⁷ The legal acceptance of ecocide is growing, but there is a serious debate about whether it can be the fifth international crime. In this section, the author would like to differentiate between the criminal law approach and the human rights approach in relation to ecocide. Why is it beneficial if ecocide is accepted through the human rights approach and not as an international crime? There is a rapidly evolving relationship between human rights, climate change, and the environment, and human rights in climate litigation

24 Palme Stockholm Conference 1972.

25 FALK 1973.

26 Independent Expert Panel for the Legal Definition of Ecocide 2021: 5.

27 OHCHR 2021.

have become extremely important. Accepting the right to a healthy environment has paralleled the growing attention on ecocide legislation. In 2022, the General Assembly declared the right to a clean, healthy, and sustainable environment related to other rights and existing international law. It affirmed that it's "promotion requires the full implementation" of the multilateral environmental agreements "under the principles of international environmental law."²⁸ The proposal of ecocide calls for the development of international criminal law to penalise wide-scale environmental destruction. Meanwhile, the growing attention on the right to a healthy environment presents another method, the human rights approach. These territories of international law are quite far from each other. Still, there is a possibility that the solution for the incorporation of ecocide into the body of international law will be through human rights law and not criminal law.²⁹

As a definition, "a human rights-based approach is a conceptual framework normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse obligations, inequalities and vulnerabilities and to redress discriminatory practices and unjust distributions of power that impede progress and undercut human rights."³⁰ Andreas von Arnould and Jens Theilen identified five functions of human rights rhetoric: an appellative function, a contesting function, a connecting function, a triggering function and a jurisgenerative function. The appellative function draws attention to environmental harm, such as ecocide. The connecting function connects to the appellative function, which serves as a critique of present injustices. The connecting function brings together national, regional and international human rights advocates and unifies them globally. Furthermore, the human rights approach triggers the institutions to fight injustices and respond to violations. Finally, it supports "discursive practices" and grassroot levels beyond the formal law-making of institutions.³¹

International criminal law establishes the legal responsibility of individual persons for international crimes. International human rights law is relevant to international criminal law from several aspects. For example, human rights law defines international fair-trial standards and the principles of legality and culpability.³² Whether it is the criminal law approach or the human rights approach, the keyword is accountability. Who and under which legal norms can be held accountable for severe environmental harm or destruction? The supporters of ecocide legislation share the strong belief that ecocide would serve as a legal basis for establishing responsibility for those who breach climate laws. Meanwhile, it is hard to establish the responsibility of large

28 Res. A/76/L.75 28

29 MWANZA 2023: 179.

30 OHCHR 2010: 1.

31 VON ARNAULD – THEILEN 2020: 34–50.

32 BROWN 2011: 10.

emitters because of the lack of jurisdiction or hard law.³³ A small but growing number of countries included ecocide legislation in national law, including some post-soviet countries (such as Russia), and recently France.³⁴ In 2021, France passed the “Climate & Resilience Act” under Article 296 of the new law to report back to parliament within one year on “its action in favour of the recognition of ecocide as a crime which can be tried by international criminal courts.”³⁵

Based on Article 8(2)(b)(iv) of the Rome Statute: “intentionally launching an attack in the knowledge that such attack will cause [...] widespread, long-term and severe damage to the natural environment, which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated” considered as “other serious violations of the laws and customs applicable in international armed conflict”, a war crime. The green shift at the International Criminal Court (ICC) was indicated in 2016 with a Policy Paper on Case Selection and Prioritisation by the Office of the Prosecutor at the ICC.³⁶ So far, the green shift is still waiting for realisation at the ICC.

There is another angle of human rights that strongly connects human rights and ecocide. Indigenous communities are highly affected by environmental destruction, such as in Brazil, but other countries also have to be considered, including Canada. In 2019, a national inquiry’s findings showed a strong link between missing and murdered indigenous women and resource extraction projects, boomtowns and man camps.³⁷ Based on the findings of the inquiry commission, indigenous activists at COP26 wanted to raise awareness of the linkages between extractive industries, climate destruction and violence against indigenous women and girls. They asserted that femicide is directly linked to ecocide.³⁸

The following table (Table 1) shows the differences between international criminal law and the human rights approach.

33 As it was visible from so called „Inuit case”. In 2005, two organisations filed a complaint with the Inter-American Commission on Human Rights against the United States of America and Canada, alleging that their actions, or lack thereof, related to climate change violated the human rights of the Inuit people. However, the Commission dismissed the complaint on the grounds of lack of jurisdiction, as it had not been proven that any of the rights enshrined in the Inter-American Convention on Human Rights had been violated. The Inuit case would have provided an opportunity to strengthen the correlation between human rights and the environment, but the Commission has shied away from this possibility. See OSOFSKY 2007: 675–697.

34 Ecocide Law [s. a.].

35 Loi n° 2021-1104 du 22 août 2021 portant lutte contre le dérèglement climatique et renforcement de la résilience face à ses effets, Journal officiel électronique authentifié n° 0196 du 24/08/2021.

36 ICC 2016: 5, 13.

37 *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* 2019.

38 BROOK 2021.

Table 1: Comparison of international criminal law and human rights approach

	International Criminal Law	Human Rights Approach
Focus	Penalise the severest environmental destruction as an international crime Adequate punishment	Identifying rights-holders and duty-bearers
Functions	Deterring, punishing	Appellative, contestation, connecting, triggering, jurisgenerative (based on von Arnould – Theilen)
Aim of process	Application of criminal law sanction	Reparation
Result	Punish the perpetrators of high-crimes	Spurs duty-bearers to meet their obligations
Legal background	ICC Statute, international criminal law	Human rights treaties and conventions, national legislation
Forum	ICC, national courts/ad hoc bodies	Human Rights Courts and bodies

Source: compiled by the author

The impact of the Russo–Ukrainian armed conflict

The Russo–Ukrainian armed conflict raised attention towards environmental destruction and ecocide. Environmental destruction as a method of warfare is not new. Even in ancient times, systematic destruction or pollution of the natural environment was used to break the power of the enemy. Defenders denied attackers food, water or shelter, or attackers induced defenders to surrender, or as a counter-insurgency measure, to quell stubborn rebellion. As far back as 512 B.C., during the Persian and Scythian War, the Scythians, after being defeated by Darius the Great, resorted to a scorched-earth policy in their retreat, causing a long-term famine for the surrounding population. Later, during the Franco–Dutch War of 1672–1678, the Netherlands self-inflicted large-scale flooding to impede the French forces. As part of the colonisation of the American continent, the ecosystem that supported the Indian tribes has been completely destroyed, causing species extinction (such as pigeons and buffalos). The never-seen systematic destruction of their food stores, crops, and game served the purpose that Indian tribes lose their livelihoods. The methods applied by the United States of America during the Vietnam War effort led to the development of the ecocide definition and the acceptance of the Convention on Prohibition of

Military or Any Other Hostile Use of the Environmental Techniques (ENMOD Convention).³⁹

Military techniques harm the agricultural and wildlands and are increasingly capable of disrupting natural habitats. For example, World War II caused enormous agricultural, forest, and other ecological devastation and destruction of cities. The warring parties used high-explosive and incendiary munitions for area bombing of densely populated urban and industrial areas. As it is well known, two cities (Hiroshima and Nagasaki) were destroyed by nuclear weapons. Due to the extent of the war, numerous tropical Pacific Ocean island ecosystems suffered. Furthermore, Germany destroyed 200 thousand hectares (17%) of Dutch agricultural lands through intentional salt-water inundation.⁴⁰ On 2 August, 1990, Iraq invaded Kuwait, leading to a war of severe environmental destruction, whose real impact is still unknown. The total volume of oil in the lakes and rivers has been estimated to be between 10 and 20 million tons, and the marine environment was exposed too. The volume of the spills has been calculated to be between 1 and 1.7 million tons.⁴¹

As Falk stated: “environmental warfare is a dramatic reminder of the extent to which the planet as a whole must mobilise a response to the ecological challenge to sustain life on earth and beat back reversions to barbarism emanating from the ‘advanced’ regions and applied to those that are relatively ‘backward.’” As a result of the armed conflict, the Ukrainian Ministry of Environmental Protection and Natural Resources identified and estimated that the current environmental costs of military actions amount to 2,194 billion Ukrainian Hryvnia. The Ministry established a website, “EcoZagora”, where consequences of military actions and impact on the environment are constantly published. The most well-known event was the breach of the Nova Kakhovka Dam, which resulted in 150 tonnes of oil and other toxic substances entering the Dnipro.⁴² As a result of the war, air, water, land, and soil pollution and damage to the ecosystem can be detected. Furthermore, natural habitats, including forests, protected biosphere reserves, and national parks, are degraded. Environmental harm, acts of deforestation, explosions, the building of fortifications, and the poisoning of the soil and water became daily problems in the Ukrainian territory.

Despite the ongoing dispute about ecocide as a fifth international crime, the war in Ukraine has served as a catalysator and put ecocide in the headlines. In 2023, a special panel discussed ecocide legislation at the United for Justice Conference.⁴³ At the European sphere, the European Parliament proposed to include ecocide in the revised Environmental Crimes Directive, which could legally enshrine ecocide and would require implementation into national law. The negotiators agreed on

39 TECLAFF 1994: 933–954.

40 Stockholm International Peace Research Institute 1980: 17.

41 LINDÉN et al. (2004): 6.

42 EcoZagora as it is on 9 February 2024.

43 Stop Ecocide Foundation 2023.

stricter sanctions for so-called qualified offences comparable to ecocide.⁴⁴ In 2022, after a decade-long negotiation, the International Law Commission adopted a legal framework to protect the environment during and after an armed conflict, and the principles will apply in intrastate and interstate conflicts.⁴⁵

There are several other international law documents concerning the protection of the environment during armed conflicts, such as the Additional Protocol I to the Geneva Conventions and its Articles 54 (objects indispensable to survival), 35 and 55 (natural environment), and 56 (dams). Furthermore, The Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques obliges the State parties not to engage in any hostile use of environmental modification techniques having “widespread, long-lasting or severe” effects as the means of destruction, damage or injury. The Russian Federation and Ukraine are also parties to the ENMOD Convention.

Final remarks

In recent years, increased attention has been paid to the protection of the environment, especially in times of armed conflict, the guarantee of environmental rights and the codification of the right to a healthy environment. We are clearly witnessing the parallel development of the right to a healthy environment and ecocide. The interrelationship between the two areas is evident since both regulations are based on understanding the environment and recognising that the realisation of human rights is closely linked to the quality of the environment, its liveability, its cleanliness and human conditions.

The place of the right to a healthy environment in the corpus of international law is still a matter of debate, in particular as to whether we can speak of the creation of a new *cogens* norm. *Ius cogens* are “those rules which derive from principles that the legal conscience of mankind deems absolutely essential to coexistence in the international community”.⁴⁶ Numerous national constitutions provide the right to a healthy environment, which has spread transnationally, establishing a “transnational environmental constitutional constellation”.⁴⁷ There is a moral responsibility toward nature – to “establish an equilibrium between humanity and nature is an international human and environmental rights convention, the environmental human rights”.⁴⁸ So far, several soft law documents and resolutions have strengthened the right to a healthy environment, and the importance of these instruments is indisputable. However, the incorporation of the right to a healthy environment into the traditional and binding human rights conventions is still a task to be done.

44 European Parliament 2023.

45 Protection of the environment in relation to armed conflicts (PERAC).

46 PARKER 1989: 415.

47 KOTZÉ 2018: 136.

48 SHELTON, 1998: 103.

Regarding ecocide, it is still just a forming concept, a possible solution to punish those who are responsible for severe environmental destruction. From the appearance of the terminology at the beginning of the 1970s, ecocide has been a simple idea rather than a reality for several decades. However, the paradigm shifts of recent years and the appreciation of environmental protection have led to the creation of the exact definition of ecocide. The key question is whether ecocide regulation will be implemented through the human rights approach or international criminal law. The anthropocentric conception of environmental law is considered by many to be outdated, and an ecocentric concept that takes into account the complexity of the environment is advocated instead, especially in the creation of new regulations. Under these circumstances, human rights might not be a beneficial way to include ecocide. Despite the growing attention of the International Criminal Court, we cannot talk about an increase in the number of environmental cases. The amendment of the Statute relies on a complex procedure, and the state parties have to accept and ratify the changes in the core document of the ICC. The already existing version of war crimes has practically remained unreferenced in the last decades.

The support for ecocide is unquestionable in the European Union, both within the EU institutions and in several Member States.⁴⁹ This is reinforced by the fact that the proposal under the current revision of the Environmental Crimes Directive will now explicitly include the need to take action against acts that constitute ecocide. The green shift is now unquestionable in international law, given the practice of the courts, including human rights bodies, the evolving human rights regime and the development of new concepts. At the same time, it should be remembered that all legislation exists only on paper until it is put into practice and applied. Armed conflicts, in particular, have drawn attention to the fact that environmental protection and nature conservation always take a back seat when the necessity of armed conflicts calls for action.

The author did not take a clear position on the future of the ecocide concept and its future place in international law. The reason for this is that the aim of this study was primarily to provide a “snapshot” of the current visions. In the author’s view, it is feasible that ecocide law will find its way into both human rights practice and international criminal law. The only question is whether and how long it will take the states to translate the concept to binding sources and for the forums to put regulations into practice. Certainly, time is running out for the environment, and every day, humanity witnesses irreversible damage to our living planet.

⁴⁹ See SZIEBIG 2022.

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