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EDITORIAL ANALYSIS

The Fifth Crime: Does the World Need a Law Against Ecocide?

 BUSINESS STANDARD

12 July 2026 ·

ENVIRONMENT

GS2

GS3

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The Fifth Crime: Does the World Need a Law Against Ecocide?

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GS2
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THE LIFT LINE

International law has learned to name the killing of people and has still not learned to name the killing of the place that keeps them alive.

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

There is a growing campaign to add “ecocide (<https://ujjyari.com/terms/ecocide/>)”, the unlawful and wanton destruction of the environment on a severe and widespread or long-term scale, as a fifth crime under the Rome Statute of the International Criminal Court, alongside genocide, crimes against humanity, war crimes and the crime of aggression. Poisoned rivers, torched oil wells, bombed dams, ruined soils and destroyed forests are the routine by-product of modern conflict, yet almost none of it results in individual criminal liability anywhere. For the exam this is a superb GS2 and GS3 crossover: it tests knowledge of international institutions, the limits of state consent, and the legal status of the environment itself.

GS Paper 2: important international institutions, their structure and **mandate** (<https://ujjyari.com/vocab/mandate/>); bilateral, regional and global groupings and agreements involving India; effects of policies of developed and developing countries on India’s interests.

GS Paper 3: conservation and environmental pollution and degradation; **environmental impact assessment** (<https://ujjyari.com/terms/environmental-impact-assessment/>); security challenges and the linkages of conflict with resources.

For **Prelims**, hold the specifics: the Rome Statute, adopted in 1998 and in force from 2002, establishing the **International Criminal Court** (<https://ujjyari.com/terms/international-criminal-court/>) at The Hague, with jurisdiction over genocide, crimes against humanity, war crimes and, since the Kampala amendments of 2010 and their activation in 2018, the crime of aggression; the ICC exercises jurisdiction over nationals or territory of states parties, or on a referral by the United Nations Security Council; India is not a party to the Rome Statute, and

neither are the United States, China or Russia; Article 8(2)(b)(iv) of the Statute is the only existing environmental provision criminalising an attack knowingly causing widespread, long-term and severe damage to the natural environment that is clearly excessive to the anticipated military advantage; the ENMOD Convention of 1976 bars the military use of environmental modification techniques; and Additional Protocol I to the Geneva Conventions, 1977, contains a parallel environmental prohibition.

BACKGROUND AND CONTEXT

The existing law looks adequate on paper and is nearly useless in practice. Article 8(2)(b)(iv) sets three cumulative thresholds, damage that is widespread and long-term and severe, and then adds a proportionality test against anticipated military advantage. Each [threshold](https://ujiyari.com/vocab/threshold/) is undefined, the conjunction makes them cumulative, and the proportionality escape hatch means a prosecutor must prove not only catastrophic damage but that the attacker knew it was clearly excessive. No one has ever been convicted under it. Meanwhile the environmental cost of war has grown: burning oil fields, breached dams, chemical contamination of aquifers, the destruction of protected forests to deny cover, and the collapse of environmental governance in conflict zones that lasts for decades after the shooting stops.

Peacetime destruction is worse served still. [Deliberate](https://ujiyari.com/vocab/deliberate/) large-scale contamination by a corporation or a state outside armed conflict falls entirely to domestic law, which is exactly where the incentive to prosecute is weakest, because the polluter is often politically powerful in the very jurisdiction that would have to act.

THE CORE ARGUMENT / ISSUE

The case for naming the crime

Criminal law works partly by expression. Naming an act as a crime against humanity changed how states, armies and companies calculated. A named crime of ecocide would attach individual criminal liability to the chief executive who orders a river poisoned or the commander who orders a dam breached, and individual liability is what pierces the shield of the state or the company. It would also give the environment intrinsic standing in international law, valued as itself rather than only as damage to human beings, which is a genuine conceptual shift.

The case against, and it is not trivial

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OBSTACLE	THE PROBLEM	WHY IT BITES
Definition	What is “severe”, “widespread”, “long-term”?	Criminal law needs precision; vague crimes fail at trial
Mens rea	Intent versus recklessness versus knowledge	Most ecological harm is a by-product, not a purpose
State consent	Amendment requires ratification by states parties	The largest emitters and militaries are outside the ICC
Enforcement	The ICC has no police force	Depends on state cooperation for arrest and evidence
Selectivity	Prosecutions have concentrated on weaker states	A new crime could deepen the perception of double standards
Peace versus war	Would it cover peacetime industrial harm?	Widening the crime widens the sovereignty (https://ujjayari.com/vocab/sovereignty/) objection

The definitional problem is the hardest. Almost all serious environmental harm is a by-product of an activity undertaken for another purpose, extraction, energy, military advantage. A crime that requires proof of an intention to destroy the environment will catch almost nobody. A crime that captures recklessness or knowledge will catch a very large number of ordinary industrial and military decisions, which is precisely why states resist it.

India’s position

India is not a party to the Rome Statute and has consistently declined to join, objecting to the Security Council’s referral power, which lets the five permanent members refer situations while remaining outside the Court’s reach themselves, and to the potential for politically motivated prosecutions. India’s environmental diplomacy runs on a different track: common but differentiated responsibilities, historical responsibility of the industrialised world, and the right to development. An ecocide crime framed around scale of damage rather than historical contribution could, in Indian eyes, penalise a developing country’s coal-fired industrialisation while leaving the accumulated stock of two centuries of Western emissions untouched. That is a serious argument and should be stated fairly.

HOW TO THINK ABOUT THIS (ANALYTICAL FRAME)

Every proposal in international law must be tested against three gates, and an answer that walks through all three will outscore one that argues only from moral urgency. Gate one, **normative** (<https://ujjayari.com/vocab/normative/>): is the harm grave enough to deserve the label of an international crime? Ecocide clears this comfortably. Gate two, definitional: can the wrong be described with the precision criminal law demands, particularly on

mental element? Here the proposal is still weak. Gate three, institutional: will the states that matter consent, and can the rule be enforced against them? Here the proposal is weakest, because the largest militaries and economies are outside the Court. The transferable insight: a norm can be right and still be unavailable, and the useful question is not whether ecocide should be a crime but which instrument, treaty, domestic statute or liability regime, can actually deliver the deterrence.

THE DIAGRAM IN WORDS

Armed conflict or large-scale extraction -> environmental destruction (poisoned water, breached dams, burnt forests, contaminated soil) -> existing law: Rome Statute Article 8(2)(b)(iv) requires widespread AND long-term AND severe damage, clearly excessive to military advantage -> thresholds cumulative and undefined -> zero convictions -> proposal: ecocide as a fifth crime, individual criminal liability -> obstacles: definition, mens rea, state consent, enforcement, selectivity -> India outside the ICC, cites CBDR and sovereignty -> realistic path: sharpen definitions, strengthen domestic environmental criminal law, use liability and reparation regimes

WAY FORWARD

- ❶ **Fix the definition before the label.** Agree an internationally negotiated definition of ecocide with a workable mental element, most plausibly knowledge of a substantial likelihood of severe and either widespread or long-term damage, so that the crime survives contact with a courtroom.
- ❷ **Repair the law that already exists.** Amend or reinterpret Article 8(2)(b)(iv) so that the three thresholds are disjunctive rather than cumulative, and clarify the proportionality test, which alone would make wartime environmental prosecution possible without waiting for a new crime.
- ❸ **Build the domestic layer.** Since the ICC covers only its parties, strengthen national environmental criminal law and corporate liability, including India's own framework under the [Environment \(Protection\) Act, 1986](https://ujiyari.com/legislation/environment-protection-act-1986/) (<https://ujiyari.com/legislation/environment-protection-act-1986/>), and the National Green Tribunal, because domestic courts will do most of the enforcing whatever The Hague decides.
- ❹ **Keep equity in the frame.** India should engage with the ecocide debate rather than dismiss it, while insisting that any regime respects common but differentiated responsibilities, applies to powerful and weak states alike, and does not become an instrument to constrain the development of the global South.

PYQ LINKAGE AND PRACTICE

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UPSC has asked about international environmental agreements, the effectiveness of global institutions, and India's stance on **multilateral** (<https://ujjyari.com/vocab/multilateral/>) regimes. This editorial links environmental degradation to international criminal law, an intersection that rewards candidates able to argue on both institutional and ecological grounds.

Practice question: “The absence of an international crime of ecocide leaves the gravest environmental destruction beyond the reach of law.” Critically examine the case for adding ecocide to the Rome Statute, and evaluate the concerns that keep states such as India outside the International Criminal Court. (250 words, 15 marks)

Sources: Business Standard (<https://www.business-standard.com/>)

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