

ECOCIDE CRIME AND THE URGENCY OF CODIFICATION IN NATIONAL CRIMINAL LAW: TOWARDS ENVIRONMENTAL PROTECTION AS A COLLECTIVE RIGHT

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Abstract

Large-scale environmental destruction, or ecocide, has gained significant attention in both international and national legal discourse due to its systemic, far-reaching, and intergenerational impacts. Although Indonesia possesses environmental legal instruments, including Law No. 32 of 2009 on Environmental Protection and Management and the criminal provisions within the new Criminal Code (KUHP), there is still no explicit regulation on ecocide. This legal vacuum creates an impunity gap for corporations and individuals committing massive ecological damage. This article examines the urgency of codifying ecocide in Indonesia's national criminal law, employing a normative-juridical approach supported by John Rawls' theory of justice, Phillipus M. Hadjon's theory of legal protection, and theories of criminalization developed by R.A. Duff and Douglas Husak. Comparative analysis with Ecuador, Bolivia, Belgium, and France further demonstrates the global trend of recognizing ecocide as an extraordinary crime equivalent to genocide and crimes against humanity. Case studies of Indonesian forest fire rulings (e.g., PT Kallista Alam and PT Adei Plantation) illustrate the normative weaknesses in current environmental law enforcement. This study finds that codification of ecocide is urgent not only to ensure repressive sanctions but also to strengthen preventive and educational functions of criminal law. The normative recommendations emphasize progressive legislation that recognizes ecocide as a serious crime, targeting individuals, corporations, and even state actors, in order to guarantee environmental protection as a collective constitutional right for present and future generations.

Keywords: *ecocide; national criminal law; criminalization; collective rights; environmental protection; codification*

Abstrak

Perusakan lingkungan dalam skala besar atau ekosida semakin mendapat perhatian serius dalam wacana hukum internasional maupun nasional karena dampaknya yang sistemik, meluas, dan lintas generasi. Indonesia memang telah memiliki instrumen hukum lingkungan, seperti Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup dan ketentuan pidana dalam Kitab Undang-Undang Hukum Pidana (KUHP) baru, namun hingga kini belum ada pengaturan eksplisit mengenai ekosida. Kekosongan hukum ini menimbulkan celah impunitas bagi korporasi maupun individu yang melakukan kerusakan ekologis dalam skala masif. Artikel ini mengkaji urgensi kodifikasi ekosida dalam hukum pidana nasional dengan pendekatan normatif-yuridis, menggunakan teori keadilan John Rawls, teori perlindungan hukum Phillipus M. Hadjon, serta teori kriminalisasi R.A. Duff dan Douglas Husak. Analisis perbandingan dengan praktik di Ekuador, Bolivia, Belgia, dan Prancis menunjukkan tren global menuju pengakuan ekosida sebagai kejahatan luar biasa setara dengan genosida dan kejahatan terhadap kemanusiaan. Studi kasus putusan pengadilan kebakaran hutan di Indonesia (PT Kallista Alam dan PT Adei Plantation) memperlihatkan lemahnya norma pidana lingkungan saat ini. Penelitian ini menemukan bahwa kodifikasi ekosida sangat mendesak, bukan hanya untuk memberi sanksi represif, tetapi juga memperkuat fungsi preventif dan edukatif hukum pidana. Rekomendasi normatif menekankan perlunya legislasi progresif yang mengakui ekosida sebagai tindak pidana berat, dengan subjek hukum tidak hanya individu dan korporasi, tetapi juga aktor negara, demi menjamin perlindungan lingkungan sebagai hak kolektif konstitusional bagi generasi kini dan mendatang.

INTRODUCTION

The worsening global environmental crisis has prompted the international community to consider the need for stricter legal arrangements against environmental crimes. One of the most massive and systemic forms of crime is ecocide, which is the large-scale destruction of the environment that endangers the survival of humans and ecosystems. In the midst of the urgency of climate change, deforestation, and industrial pollution, ecocides are a real threat to human rights, especially the right to a good and healthy environment.

The term *ecocide* was first coined by Richard A. Falk in 1973 as a form of crime against the environment in the context of international law, especially after the Vietnam War which caused massive ecological damage due to the use of hazardous chemicals such as *Agent Orange* by the United States¹ military. In its development, ecocide began to be proposed as the fifth international crime under the Rome Statute in addition to genocide, crimes against humanity, war crimes, and crimes of aggression².

Unfortunately, in Indonesia, despite the existence of environmental laws and

several provisions in the Criminal Code (KUHP), there is no special recognition of the crime of ecocide. Law enforcement against perpetrators of environmental destruction is still fragmented, sporadic, and tends to be administrative or civil, so it does not provide maximum deterrent effect against the perpetrators of ecological³ crimes.

The lack of clarity in criminal law against ecocide crimes creates a space of impunity for large corporations that are often major actors in environmental destruction. The absence of explicit norms regarding ecocide as a serious crime makes the criminal law lose its protective and preventive functions. This is contrary to the principle of the rule of law which guarantees legal certainty and protection of citizens' basic rights, including the right to the environment⁴.

In the context of human rights, a healthy environment is a prerequisite for the fulfillment of other basic rights. The United Nations Commission on Human Rights even stated that environmental damage directly or indirectly threatens the fulfillment of the rights to life, health, food, and clean water⁵. Thus, the criminal law

¹ Richard A. Falk, *Environmental Warfare and Ecocide – Facts, Appraisal and Proposals*, Bulletin of Peace Proposals, Vol. 1, No. 3, 1973.

² Polly Higgins, Damien Short & Nigel South, "Protecting the Planet: A Proposal for a Law of Ecocide", *Crime, Law and Social Change*, Vol. 59, 2013, pp. 251–266.

³ Fitrian Ardiansyah, "Environmental Governance

in Indonesia", *Jurnal Hukum Lingkungan Indonesia*, Vol. 7, No. 2, 2020

⁴ Maria Farida Indrati, *Ilmu Perundang-Undangan*, Kanisius, 2007.

⁵ UNHRC, "Human Rights and the Environment: Report of the Special Rapporteur", A/HRC/37/59, 2018.

framework should be expanded to explicitly protect the environment as part of the collective rights of society.

The urgency of ecocide recognition in national criminal law is not only aimed at punishing, but also as a form of state recognition of the principle of ecological justice. This justice emphasizes the importance of a harmonious relationship between humans and nature, as well as the responsibility between generations to maintain environmental sustainability⁶. In this regard, John Rawls's thinking about intergenerational justice is very relevant, that natural resources must be managed fairly for present and future generations⁷.

Apart from being a form of protection for the environment, ecocide recognition also has symbolic and educational dimensions. The criminalization of ecocides will confirm that large-scale environmental destruction is a serious violation of human values. This will encourage the transformation of legal culture and strengthen the ecological awareness of the community and business actors⁸.

In modern criminal law, the expansion of the subject and object of legal protection is part of the development of the victim-oriented paradigm. The environment as a "victim" is not just a passive object, but has an intrinsic value that deserves to be protected by the criminal

law system⁹. Therefore, the concept of ecocide is relevant to the development of criminal law that is adaptive to the global crisis and a paradigm shift in legal protection.

Criminal law has an ultimum remedium function which is not meant simply as a last resort, but as an important means of protecting fundamental values in society. In the context of ecocides, the values that are protected are the sustainability of life and ecological integrity. Thus, the explicit regulation of the ecocide in criminal law is a normative step that is in line with the main function of criminal law¹⁰.

The codification of ecocide crimes in the Criminal Code is important to affirm the state's position in dealing with the environmental crisis. Codification not only provides legal certainty for law enforcement officials in ensnaring perpetrators, but also is a manifestation of the state's commitment to the principles of sustainable development with ecological justice¹¹.

This effort is also in line with the spirit of the ongoing national criminal law reform, as seen in the drafting of the new Criminal Code. Unfortunately, in the draft of the Criminal Code that has been passed, provisions regarding ecocide have not appeared explicitly. This shows that there is

⁶ Peter Hay, *Main Currents in Western Environmental Thought*, Indiana University Press, 2002.

⁷ John Rawls, *A Theory of Justice*, Harvard University Press, 1971.

⁸ Arief Budiman, "Lingkungan dan Hukum: Membangun Kesadaran Ekologis", *Jurnal Hukum dan Pembangunan*, Vol. 45, No. 3, 2015.

⁹ David Rodríguez Goyes, Nigel South, "Green Victimology: Developing Theory", *Critical Criminology*, Vol. 25, 2017.

¹⁰ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, Citra Aditya Bakti, 2010.

¹¹ Muladi, *Kapita Selekta Sistem Peradilan Pidana*, Badan Penerbit UNDIP, 2002.

an urgent substantive legal void to be filled through normative reformulation.¹²

The reformulation of criminal norms regarding ecocide can be carried out through a new criminalization approach by paying attention to the principles of proportionality, legality, and accountability. According to Douglas Husak, criminalization must be based on the need to protect important public interests and the compatibility between legal prohibition and the impact caused by the act¹³.

By making ecocide a serious crime, the state can target the main actors behind environmental crimes, both individuals and corporations. In many cases, ecological damage is caused by irresponsible exploitation of natural resources by multinational corporations with the support of local power structures that are permissive to lawlessness¹⁴.

Therefore, the criminal law approach to ecocide must not stop at criminalizing perpetrators in the field, but must also reach out to intellectual actors, corporations, and public officials involved in the neglect and evil exploitation of the environment. It reflects an *integral accountability approach* that includes the criminal accountability of corporations and state officials¹⁵.

The recognition of ecocide as a serious crime in the national criminal law system is a form of normative courage to place the environment as an important

subject in the legal system. This will strengthen legal protection of the environment and make ecological sustainability the foundation of national development that is in favor of future generations.

PROBLEM FORMULATION

Based on the description in the Application, the problems to be analyzed in this study can be formulated as follows:

1. What is the concept and juridical construction of the crime of ecocide that can be codified in Indonesia's national criminal law in order to realize environmental protection as a collective right?
2. How does the ideal criminal accountability model include individuals, corporations, and public officials as well as the integration of ecological and restorative justice principles in the formulation of ecological crimes in Indonesia?

RESEARCH METHODS

This study uses a **normative juridical** approach (*doctrinal legal research*) by focusing on the study of applicable legal norms, legal theory, and relevant principles in constructing the

¹² Lilik Mulyadi, *Reformasi Sistem Hukum Pidana Indonesia*, Sinar Grafika, 2022.

¹³ Douglas Husak, *Overcriminalization: The Limits of the Criminal Law*, Oxford University Press, 2008.

¹⁴ Satya Arinanto, "Tanggung Jawab Korporasi

dalam Hukum Lingkungan", *Jurnal Hukum IUS*, Vol. 26, 2021.

¹⁵ Erik Luna & Marianne Wade, *The Prosecutor in Transnational Perspective*, Oxford University Press, 2012.

urgency of recognizing ecocide crimes in national criminal law¹⁶. The normative approach was chosen because the problems studied focused on the analysis of normative emptiness and the need for criminal law reform through the codification of ecology in the Criminal Code (KUHP).¹⁷ Thus, this research emphasizes more on conceptual and normative analysis of positive law and its comparison with international legal instruments and practices in other countries¹⁸.

This type of research is **prescriptive and evaluative**, which not only describes the existing legal situation, but also provides normative recommendations regarding the ideal ecocide management model in Indonesia's national criminal law¹⁹. This prescriptive character allows research to produce new legal formulations that are in accordance with the principles of ecological justice, collective rights, and the development of modern criminal law²⁰.

a. Research Approach

To achieve the objectives of the study, several approaches were used, namely:

1. **The statute approach** is to examine relevant laws and regulations, both in the field of general criminal law and environmental law, such as Law Number 1 of 2023 concerning the Criminal Code, and Law Number 32 of 2009 concerning Environmental Protection and Management²¹. This approach is used to identify the extent to which existing regulations have provided protection to the environment from ecological threats.
2. **The conceptual approach** is by referring to legal doctrines and theories, such as John Rawls' theory of justice, Phillipus M. Hadjon's theory of legal protection, ecological justice theory, *green criminology*, and the theory of criminalization of R.A. Duff and Douglas Husak²². This approach provides a philosophical and conceptual basis for the urgency of ecocide codification.
3. **The comparative approach** is to compare the legal arrangements in several countries that have recognized

¹⁶ Johnny Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia, 2006), hlm. 47.

¹⁷ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017), hlm. 133.

¹⁸ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 1986), hlm. 52.

¹⁹ Bernard Arief Sidharta, *Refleksi tentang Struktur Ilmu Hukum* (Bandung: Mandar Maju, 2009), hlm. 87.

²⁰ Muladi & Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana* (Bandung: Alumni, 2010), hlm. 121.

²¹ Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana; Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup..

²² John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971); Phillipus M. Hadjon, *Perlindungan Hukum bagi Rakyat Indonesia* (Surabaya: Bina Ilmu, 1987); R.A. Duff, *Trials and Punishments* (Cambridge: Cambridge University Press, 1986); Douglas Husak, *Overcriminalization: The Limits of the Criminal Law* (Oxford: Oxford University Press, 2008).

environmental rights or even made nature a subject of law, such as Ecuador and Bolivia²³. In addition, it also pays attention to the development of international law, especially the proposed definition of ecocide by *the Independent Expert Panel for the Legal Definition of Ecocide (2021)*.²⁴

4. **The Case Approach**, by examining court decisions and environmental crime cases in Indonesia that can be qualified as ecocides, to see how law enforcement practices are running and the obstacles faced²⁵.

b. Legal Sources and Materials

The legal materials used in this study include:

1. **Primary legal materials**, in the form of national laws and regulations of the 1945 Constitution, the Criminal Code (Law No. 1 of 2023), Law No. 32 of 2009, regulations related to the environment, court decisions, and international legal instruments (Rome Statute, Stop Ecocide Foundation 2021 report) relevant to environmental and human rights crimes.
2. **Secondary legal materials**, in the form of literature,

academic journals, research results, scientific papers, and expert opinions related to ecocide, criminal law, and ecological justice.

3. **Tertiary legal materials**, in the form of legal dictionaries, encyclopedias, and bibliographic indexes are used to strengthen conceptual understanding.

RESULTS OF RESEARCH AND DISCUSSION

1. Normative Voids in National Criminal Law

Indonesia's current criminal law does not explicitly regulate the crime of ecocide. Law No. 32 of 2009 concerning Environmental Protection and Management (PPLH Law) does contain criminal provisions, but it is partial, focusing more on pollution or destruction of the environment on a limited scale. The criminal articles in the PPLH Law focus more on administrative violations committed by individuals or corporations without looking at the dimensions of systemic ecological damage that are cross-generational. Thus, existing regulations have not been able to accommodate the complexity of ecocide crimes.

The new Criminal Code (Law No. 1 of 2023) has also not provided an adequate answer. Although there are provisions in

²³ Constitution of the Republic of Ecuador (2008); Political Constitution of the Plurinational State of Bolivia (2009).

²⁴ Independent Expert Panel for the Legal Definition of Ecocide, *Stop Ecocide Foundation Report* (June 2021).

Report (June 2021).

²⁵ Lihat misalnya Putusan PN Meulaboh No. 12/Pid.B/2014/PN.Mbo (kasus kebakaran hutan), serta Putusan MA No. 111/K/Pid.Sus-LH/2015.

Book II regarding environmental crimes, the provision does not use the terminology "ecocide" and does not distinguish between ordinary environmental crimes and massive ecological damage. In fact, ecocide should be positioned as an *extraordinary crime* equivalent to genocide or crimes against humanity, because it has the characteristics of a broad, systemic, and difficult to recover impact.

As a result of this normative vacuum, many cases of large-scale environmental damage in Indonesia are handled through civil or administrative mechanisms, while criminal instruments are rarely used effectively. This phenomenon creates impunity for large corporations, which are often only subject to compensation or revocation of licenses, but are not strictly punished. This is in contrast to the principles of modern criminal law that emphasize the protection of fundamental public interests, including environmental sustainability.

The case of forest and land fires in Sumatra and Kalimantan is a clear example of the weakness of criminal instruments. In the case of PT Kallista Alam (Supreme Court Decision No. 651 K/Pdt/2015), the company was sentenced to civil sanctions in the form of compensation of Rp366 billion due to land burning in Rawa Tripa, Aceh. However, the criminal aspect against the corporation and the company's directors is not carried out. Similarly in the case of PT Adei Plantation (Pelalawan District Court Decision No. 90/Pid.B/2013/PN.Plw), although the company was found guilty, the punishment imposed was limited to a light fine and a conditional sentence against the field

manager, while the corporation as a legal entity continued to operate.

This condition shows that without explicit regulation on ecocide, Indonesia's criminal law does not have sufficient reach to take action against the main perpetrators of ecological damage. The theory of criminalization put forward by Husak (2008) emphasizes that criminalization must be directed at the protection of fundamental public interests. In this context, a healthy environment is the main public interest that must be protected, so the absence of an ecocide article in the Criminal Code reflects the weak protection of criminal law against the collective rights of the community.

This normative void also has implications for the weakening of the function of criminal law as a preventive and educational instrument. Criminal law should not only provide a deterrent effect, but also instill ecological awareness in both individuals, corporations, and the state. Without ecocide codification, these preventive functions are difficult to achieve, because potential perpetrators do not see a significant criminal threat to large-scale ecosystem destruction.

Thus, it can be concluded that the normative vacuum regarding the crime of ecocide in Indonesia's national criminal law is the main obstacle in realizing effective environmental protection. This gap must be addressed immediately through progressive legislation so that the criminal law can function optimally in the face of the challenges of the ecological crisis.

2. Ecocide as an Extraordinary Crime

First conceptually, ecocides have characteristics that distinguish them from ordinary environmental crimes. First, ecocides have a **widespread and systemic impact** on ecosystems. Large-scale ecological damage not only impacts one region, but also disrupts regional and global ecological balances. For example, forest fires in Sumatra and Kalimantan not only damage local ecosystems, but also cause cross-border haze to neighboring countries such as Malaysia and Singapore.

Second, ecocides have **irreversible harm** or damage that cannot be completely reversed. If a tropical forest ecosystem is destroyed by massive burning or deforestation, it can take tens or even hundreds of years to restore its function, or it may even never return to its original state. This irreversible nature of damage suggests that the ecocide touches on a fundamental interest of humanity: the sustainability of life across generations.

Third, eco-actors are often not ordinary individuals, but **multinational corporate actors** or entities with strong political and economic support. In the theory of *state-corporate crime* (South, 2014), many cases of environmental damage occur due to collusion between corporations and state officials, making it difficult to reach by traditional criminal law mechanisms. This makes ecocide an organized crime that requires extraordinary legal instruments.

The Independent Panel of Experts on the Legal Definition of Ecosystems (2021) 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". This definition emphasizes two important elements: the existence of serious awareness or negligence on the part of the perpetrator, as well as the impact of damage that is *widespread* or long-term. This element is in line with the requirements for criminalization in criminal law theory, namely the existence of fundamental public interests that must be protected.

From the perspective of justice, Rawls (1971) emphasized the concept of *justice between generations*, namely justice between generations that requires the current generation to protect natural resources for the welfare of future generations. In this context, leaving the ecocide unregulated means sacrificing future generations' right to a healthy environment. Therefore, the criminalization of ecocides has a strong moral basis as a form of fulfillment of the principle of intergenerational justice.

The recognition of ecocide as an extraordinary crime is also supported by international practice. Belgium in 2023 officially adopted ecocide into national law as a serious crime, while France recognizes ecocide in its domestic environmental law although it is still limited. Ecuador and Bolivia are even more advanced by recognizing nature as a legal subject in their respective constitutions. This trend shows a global awareness that ecological destruction cannot be seen as an ordinary crime, but rather as an existential threat to humanity.

Taking into account the characteristics of the impact, the nature of

the damage, the perpetrator actors, as well as the moral and justice foundation, it is clear that ecocide qualifies to be categorized as **an extraordinary crime**. Therefore, ecocide must be placed on a par with genocide and crimes against humanity, both in international law and in Indonesia's national criminal law.

3. Collective Rights to the Environment

The recognition of ecocide as a serious crime cannot be separated from the human rights dimension. The Indonesian Constitution through **Article 28H paragraph (1) of the 1945 Constitution** expressly guarantees the right of everyone to live a prosperous life in birth and mind, to live, and to have a good and healthy living environment. This constitutional guarantee shows that the environment is not only a technical-ecological issue, but part of the fundamental rights of citizens that must be protected by the state.

The right to a good and healthy environment is included in the category of **third-generation rights** or *solidarity rights*. According to Karel Vasak (1977), third-generation rights are collective rights that emphasize the common interests of humanity, such as the right to development, peace, and the environment. In contrast to civil-political rights (first generation) or economic-social rights (second generation), third-generation rights are collective and require the responsibility of the state to protect the common interests of all citizens, even across generations.

International literature also emphasizes that the right to a healthy environment is an **emerging human right**. Boyd (2017) in *The Rights of Nature* states

that without a healthy environment, the fulfillment of other basic rights such as the right to life, health, and food will be impossible to achieve. This is strengthened by the UN Human Rights Council report (2018) which states that environmental damage has a direct correlation with human rights violations, so environmental protection must be a priority of international and national law.

In the Indonesian context, the regulation of environmental rights is also strengthened by **Law No. 32 of 2009** concerning Environmental Protection and Management, which in Article 65 gives everyone the right to a good and healthy environment and the state's obligation to protect these rights. However, the weakness of criminal law instruments in cracking down on large-scale environmental damage shows the gap between constitutional norms and legal reality.

This gap creates conditions where collective rights to the environment are often violated without adequate criminal accountability mechanisms. For example, in the case of forest fires in Riau and Kalimantan, local communities suffer health, social, and economic losses due to haze, but large corporations are often the main culprits only subject to administrative or civil sanctions. This is clearly contrary to the state's obligation to protect the collective rights of citizens as mandated by the constitution.

Phillipus M. Hadjon's theory of legal protection provides a framework for assessing state responsibility. According to Hadjon, legal protection includes the state's efforts to prevent rights violations as well as providing a redress mechanism when rights

are violated. In this context, the failure of the state to criminalize the ecocide means a failure to provide effective legal protection of the collective right of communities to a good and healthy environment.

Furthermore, the right to the environment also has **an intergenerational dimension**. Future generations have the same right to enjoy a healthy and sustainable environment. Thus, the crime of ecocide not only violates the rights of the current community, but also deprives future generations of the rights. Therefore, the recognition of ecocide as an extraordinary crime is in line with the principle of **intergenerational justice** that places ecological sustainability as part of moral and legal obligations.

Taking into account constitutional aspects, international human rights doctrines, and legal protection theory, it is clear that the recognition of ecocides as a serious crime is an important step to ensure the protection of collective rights to the environment. Without the criminalization of the ecosystem, the state risks violating its constitutional and international obligations to guarantee healthy environmental rights for all citizens, both current and future generations.

4. Comparative Studies: Ecosystem Arrangements in Other Countries

The recognition of ecocide as a serious crime has not only appeared in academic discourse, but has also been adopted in several national legal systems. This comparison is important to see how other countries respond to ecological crises through criminal law instruments, as well as

provide lessons for Indonesia in formulating similar policies.

Ecuador became a pioneer by recognizing nature (*Pachamama*) as a subject of law through the 2008 Constitution. Article 71 of the Constitution of Ecuador gives nature the right to be respected for its existence and restored if damaged. With this recognition, environmental damage can be processed not only as a violation against humans, but also as a violation of the rights of nature itself.

Bolivia followed a similar step by passing *the Law of the Rights of Mother Earth* in 2009, which established the earth as an entity with inherent rights. This law expands the scope of environmental protection by providing a strong legal basis to prosecute perpetrators of ecological damage, whether individuals, corporations, or the state.

In Europe, **Belgium** in 2023 became the first country to criminalize ecocide in its national law. Belgium includes ecocide as a serious crime within the framework of national criminal law, with the threat of up to 20 years in prison for perpetrators proven to have caused extensive or long-term ecosystem damage. This step makes Belgium a pioneer in the European context.

France has also introduced the concept of ecocides in its environmental law. Through *the Loi Climat et Résilience* in 2021, France introduced the term "ecocide" to ensnare the perpetrators of serious environmental destruction in the domestic territory. However, the scope of the definition is more limited than in Belgium because it still focuses on the

national context and does not yet include transnational aspects.

In addition, the **European Union** is pushing for the harmonization of environmental criminal law by including ecocide in the discussion of the revision of *the EU Environmental Crime Directive* (2022). Although still in the formulation stage, this trend shows that the recognition of ecocide as a serious crime is gaining legitimacy at the regional level.

Table .1 Comparative Overview of Ecocide Regulations in Multiple Countries:

Country/Or ganization	Legal Instru ments	Status of Ecosyst ems	Key Charact eristics
Ecuador	Constit ution 2008 (Article s 71– 74)	Nature is recogni zed as a subject of law	Natural rights are protecte d; Lawsuits can be filed on behalf of nature
Bolivia	<i>Law of the Rights of Mother Earth</i> (2009)	Earth as a legal entity	Land rights are recogniz ed; Ecosyste m Protection as a State Obligati on
Belgium	Crimina l Code Reform (2023)	Ecocide is recogni zed as a serious crime	Criminal threats of up to 20 years; Covers broad & long-

Country/Or ganization	Legal Instru ments	Status of Ecosyst ems	Key Charact eristics
			term impacts
France	<i>Climate and Resilien ce Act</i> (2021)	Recogn ized ecocide is limited	Domesti c focus; Sanction s for serious environ mental damage
European Union	Draft <i>EU Environ mental Crime Directiv e</i> (2022)	In the process of harmon ization	Leading to the recogniti on of ecocide as a regional crime

This comparison shows a **global trend towards an ecocentric paradigm** in criminal law. Indonesia can take important lessons from this practice. First, the recognition of ecocides in constitutions (such as Ecuador and Bolivia) suggests that environmental protection can be placed on an equal footing with human rights. Second, the criminalization of ecocide in the Criminal Code (such as in Belgium) shows how national criminal laws can be an effective instrument in providing a deterrent effect. Third, the French experience shows that partial recognition remains useful as a first step before a more comprehensive arrangement.

Thus, this comparative study strengthens the argument that Indonesia is not only necessary, but also capable of adopting ecocide in its criminal law system. International trends are the foundation of legitimacy as well as encouragement so that

Indonesia is not left behind in the global environmental protection agenda.

5. The Urgency of Codification in the Criminal Code

The codification of ecocide crimes in the Criminal Code has a very urgent urgency. First, **it provides legal certainty**. Without an explicit definition of ecocide, law enforcement officials have no clear basis for ensnaring the perpetrators of large-scale ecological destruction. This creates a gray area that large corporations often exploit to avoid criminal liability. With codification, law enforcement agencies obtain certainty of norms to classify certain acts as ecocide crimes.

Second, ecocide codification can **increase the deterrent effect**. Severe criminal threats to the ecosystem will force individuals and corporations to be more careful in carrying out activities that have the potential to damage the environment. So far, administrative or civil sanctions are often considered as *a cost of doing business* by large corporations, so they do not have a deterrent effect. The codification of the ecocide with severe criminal threats will change that paradigm.

Third, codification has **a preventive and educational function**. With the regulation of ecocide as an extraordinary crime, the public, corporations, and state officials will be encouraged to build higher ecological awareness. Criminal law in this case functions not only as a tool of repression, but also as an instrument of social education to form environmentally friendly behavior.

Fourth, the codification of the ecosystem will **strengthen Indonesia's position in the international legal arena**. As a country with high biodiversity wealth, Indonesia will show a global commitment to environmental protection if it recognizes ecocide as a criminal offense. This can increase Indonesia's credibility in international forums, especially in the context of climate change and environmental cooperation.

To clarify this urgency, here is an example of **a proposed formulation of an ecocide article** that can be adopted in the Criminal Code:

"Any person who intentionally or due to serious negligence commits an unlawful act that is known or should be known to cause severe, extensive, and/or long-term damage to the ecosystem, shall be convicted of the crime of ecocide with a minimum prison sentence of 10 (ten) years and a maximum of 20 (twenty) years and a fine of at least Rp10,000,000,000, 00 (ten billion rupiah) and a maximum of Rp50,000,000,000.00 (fifty billion rupiah)."

The formulation is in line with the definition of the Independent Panel of Experts (2021) and Belgian practice (2023), with emphasis on the element of intentional or serious negligence, as well as the impact of widespread or long-term damage.

In addition, ecocide codification must also strengthen **corporate criminal liability**. Corporations are the main actors in many cases of environmental damage, so if only individuals are criminally charged, the legal function will not be effective. Therefore, corporate criminal liability

needs to be formulated explicitly, for example:

"In the event that the crime of ecocide is committed by a corporation, a penalty shall be imposed on the corporation in the form of a fine of at least IDR 50,000,000,000.00 (fifty billion rupiah) and a maximum of IDR 500,000,000,000.00 (five hundred billion rupiah), and additional penalties can be imposed in the form of revocation of business licenses, confiscation of profits, and dissolution of corporations."

No less important, **state actors** must also be included as subjects of ecocide crimes. Many cases of ecological damage involve state policies or the negligence of officials in supervising natural resource exploitation activities. By including state officials as subjects of ecocide law, it is hoped that there will be no impunity for environmental crimes committed in the name of development policies.

Thus, the codification of ecocides in the Criminal Code is not only a matter of technical legislation, but is a **strategic step** to ensure environmental protection as a collective right, strengthen ecological awareness, and uphold the principle of intergenerational justice.

1. Critical Discussion

The recognition of ecocide as an extraordinary criminal act in Indonesia's national criminal law does have a strong normative urgency. However, there are a number of challenges and limitations that need to be critically studied so that codification proposals do not stop at the level of discourse. First, **the issue of political law**. The legislative process in

Indonesia is heavily influenced by political and economic interests, including the interests of large corporations that have a strong influence on state policies. Efforts to include ecocide in the Criminal Code or to establish a special law have the potential to face resistance from interest groups who feel disadvantaged by strict regulations on natural resource exploitation activities.

Second, challenges in terms of **law enforcement**. Even if ecocide norms are codified, without adequate law enforcement capacity, they could become "paper tigers." Law enforcement in Indonesia still faces various limitations, both in terms of human resources, environmental forensic technology, and the integrity of the apparatus. The phenomenon of corruption and weak coordination between law enforcement agencies has further worsened the situation. Therefore, ecocide codification must be accompanied by institutional reform of law enforcement so that its implementation is effective.

Third, there is the problem of **methodological uncertainty in measuring ecological impacts**. The definition of ecocide requires the presence of "extensive, severe, or long-term" damage. However, determining such parameters in legal practice is often not easy. For example, how much land can be burned as an ecocide? Can the public health impact of haze be directly attributed as evidence of systemic ecological damage? To answer this question, clear scientific standards and environmental forensic proof mechanisms are needed that can be accounted for in court.

Fourth, in terms of **the criminal law paradigm**, the recognition of ecocide

marks a shift in orientation from an anthropocentric approach to an ecocentric approach. Historically, criminal law has been more oriented towards the protection of individuals and property rights. The recognition of ecocides demands a paradigm shift, in which the environment is seen as an entity with intrinsic value and inherent rights. This paradigm shift requires conceptual acceptance not only from academics, but also from legislators, law enforcement officials, and the wider community.

Fifth, this research has **methodological limitations**. Because it uses a normative-juridical approach, this study has not explored in depth the empirical aspects related to environmental law enforcement in the field. Empirical data on court practice, apparatus barriers, and legal political dynamics are essential to complement normative studies. These limitations open up space for further research with socio-legal or empirical approaches to provide a more comprehensive picture.

Sixth, from an **international comparative perspective**, although some countries have recognized ecocide, its implementation still faces obstacles. France, for example, has been criticized for its definition being too narrow to include transnational ecological damage. Belgium, although more progressive, still faces challenges in ensuring consistency in the application of the new law. This shows that although global trends support ecocide recognition, Indonesia still needs to formulate regulations that are appropriate to the local context and pay attention to potential obstacles to its implementation.

Thus, this critical discussion confirms that ecocide codification is not an instant solution. It requires **political commitment, institutional capacity, methodological clarity, and a change in the paradigm of criminal law**. However, this is precisely where the academic and practical value of this research lies: it provides a strong normative basis to drive a shift in Indonesian criminal law towards a more equitable and sustainable ecocentric paradigm.

CONCLUSION

Based on the description and analysis that has been carried out, several important conclusions can be drawn. First, the crime of ecosidy is an unlawful act committed deliberately or due to serious negligence, which results in large, severe, and/or long-term damage to the ecosystem. Characteristically, ecocides involve cross-generational impacts, actors often in the form of large corporations or state actors, as well as irreversible ecological losses. Therefore, ecocide qualifies as **an extraordinary crime**, on par with genocide or crimes against humanity.

Second, the current condition of Indonesia's national criminal law still shows a **normative vacuum**. Although Law No. 32 of 2009 and the new Criminal Code have regulated environmental crimes, these regulations have not explicitly regulated ecocides. As a result, law enforcement against large-scale environmental damage tends to be weak, often stopping at administrative or civil routes, while the criminal dimension is only imposed on the perpetrators on the ground.

This creates impunity for large corporations and weakens the function of criminal law as a protective and preventive instrument.

Third, the recognition of ecocides has direct implications for the **protection of the collective right to a good and healthy environment** as guaranteed by Article 28H paragraph (1) of the 1945 Constitution. This right is non-derogable and has an intergenerational dimension, so neglect of ecocide regulation means neglect of the state's obligation to protect the human rights of current and future generations.

Fourth, comparative studies show that global trends have moved towards ecocide recognition. Ecuador and Bolivia recognize nature as a subject of law in their constitutions, Belgium criminalizes ecocides in the Criminal Code with severe criminal threats, France recognizes ecocides in its environmental law, and the European Union is harmonizing similar rules. This comparison reinforces the normative legitimacy that Indonesia should not be left behind in adopting ecocide regulations.

Fifth, the codification of ecocide in the Criminal Code has strategic urgency: providing legal certainty, increasing the deterrent effect, carrying out educational functions, and strengthening Indonesia's position in the international legal arena. The formulation of ecocide offenses that includes intentionality or serious negligence with the impact of widespread, severe, and long-term damage needs to be explicitly included, with a criminal accountability mechanism for individuals, corporations, and state actors.

Based on these conclusions, this study recommends several steps. From the normative aspect, the government and the House of Representatives need to immediately include explicit provisions on ecocide crimes in the Criminal Code or, if necessary, establish a special law on serious environmental crimes. The definition can refer to the recommendations of *the Independent Expert Panel for the Legal Definition of Ecocide* (2021) with adjustments to the Indonesian context.

From a policy aspect, environmental law enforcement must be strengthened by establishing special units that handle ecocides, increasing environmental forensic capacity, and expanding corporate criminal liability mechanisms. Law enforcement must also be free from political intervention and economic interests, so that it can ensnare the main perpetrators of ecological damage.

From the academic aspect, further research is needed to examine the empirical dimension of environmental law enforcement in Indonesia. The socio-legal study will enrich the normative perspective with field data on judicial practice, institutional barriers, and political dynamics of the law. In addition, academic studies also need to offer draft articles or concrete regulatory models that can be adopted by legislators.

From a global perspective, Indonesia needs to support international initiatives to recognize ecocide as the fifth international crime under the Rome Statute. This support will demonstrate Indonesia's commitment to global environmental protection while strengthening Indonesia's legal diplomacy at the international level.

Thus, this study confirms that the recognition of ecocide as an extraordinary criminal act through codification in the national criminal law is a strategic and urgent step. This step is not only for the sake of legal certainty and the effectiveness

of law enforcement, but also for the sake of ensuring environmental protection as a collective right guaranteed by the constitution and for the sake of maintaining intergenerational justice.

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