The International Journal of Human Rights

ISSN: 1364-2987 (Print) 1744-053X (Online) Journal homepage: www.tandfonline.com/journals/fjhr20

‘Human, all too human’: the anthropocentricisation of ecocide

Matthew Gillett

To cite this article: Matthew Gillett (18 Sep 2025): ‘Human, all too human’: the anthropocentricisation of ecocide, The International Journal of Human Rights, DOI: 10.1080/13642987.2025.2545294

To link to this article: https://doi.org/10.1080/13642987.2025.2545294

Published online: 18 Sep 2025.

THE INTERNATIONAL JOURNAL OF HUMAN RIGHTS
https://doi.org/10.1080/13642987.2025.2545294

Routledge
Taylor & Francis Group

OPEN ACCESS Check for updates

'Human, all too human': the anthropocentricisation of ecocide

Matthew Gillett

Law School, University of Essex, Colchester, UK

ABSTRACT

Using the theoretical framework of co-optation, this article argues that the ecocide movement can be accommodated under the institutional framework of the International Criminal Court in a mutually beneficial manner. However, *how* ecocide is formulated before the Court is pivotal. There are risks of, on the one hand, anthropocentricising ecocide, and on the other of undermining the Court's core tenets as a judicial body required to uphold fundamental human rights. A typology of the major approaches to ecocide shows there is significant conceptual divergence regarding the purpose of this crime. Some commentators have inserted overarching anthropocentric interests into the definition, whereas others insist on its ecocentric formulation. The analysis herein argues that excessive incorporation of anthropocentric interests risks causing assimilative co-optation of the ecocentric strand of the ecocide movement. That would nullify the independent value of ecocide as a protection for nature. Conversely, the ecocentric roots of ecocide can be accentuated by ensuring its applicability independent of showing harm to humans. In this way, the relationship between the Court and the ecocide movement can shift away from assimilation and towards a mutually advantageous relationship adhering to the framework of strategic co-optation.

ARTICLE HISTORY
Received 20 April 2025
Accepted 26 July 2025

KEYWORDS
Ecocide; strategic co-optation; International Criminal Court; ecocentric; anthropocentric

1. Introduction: ecocide on the legal horizon

Given the growing concerns over the 'triple planetary threat' of climate change, pollution, and biodiversity loss (Branch & Minkova, 2023, p. 52; Hulme, 2022, p. 1190; U.N. Climate Change, 2022), it is unsurprising that the movement to prohibit ecocide has gained powerful momentum. The prospect of ecocide sits at the apex of accountability. It is the subject of significant attention, particularly since December 2024, when it was formally proposed for adoption before the International Criminal Court (ICC Assembly of States Parties: Report of the Working Group on Amendments, ICC-ASP/23/26, 1 December, 2024, p. 4 and Annex II, 2024). This proposal fits with a broader trend of

CONTACT Matthew Gillett matthew.gillett@essex.ac.uk

adapting legal mechanisms to protect the environment. Other tools include the right to a clean, healthy and sustainable environment, which has been recognised as part of the normative architecture by the United Nations General Assembly, Economic and Social Council, and the Human Rights Council (UNGA Resolution A/RES/76/300, 'The human right to a clean, healthy and sustainable environment', 28 July 2022). Relatedly, bodies such as the European Court of Human Rights and the International Court of Justice have used existing human rights to impugn authorities for failing to tackle climate change (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, 53600/20).

From a pragmatic perspective, the protection of nature via these anthropocentric frameworks would appear to offer the benefit of utilising established structures such as international courts. However, from a conceptual perspective, utilising anthropocentric frameworks to protect nature is problematic, as it implicitly subordinates environmental harm to human interests. That subordination is a key driver of environmental harm, which is typically caused by lack of due regard for the value of the environment, or by de-prioritising its protection in the face of human demands, rather than malice or specific intent against it *per se*. For example, this has been shown at the JEP, where the FARC were the de facto environmental authority but did not have 'an active policy to prevent the damages caused' (JEP, 2023, para. 493; Liévano, 2023) thereby leading to extensive harm to nature. If the International Criminal Court's capacity to prosecute environmental harm is conditioned on showing harm to humans, then it deprives the independent ecocentric utility of ecocide and reinforces the message of environmental deprioritisation. That conceptual incongruence could significantly undermine the ecocentric rationale of adding the new crime. Ultimately, it risks the anthropocentricisation of ecocide (to the author's knowledge, the term 'anthropocentricisation' is used herein for the first time in relation to ecocide; it has previously been used in international relations scholarship relating to incorporating animal advocacy movements, but not in legal scholarship; Tauber, 2023). It does so by centring human interests in a tool intended to protect non-human interests and thereby implicitly (or explicitly) subordinating the non-human to the human interests.

These risks are not purely theoretical. Already an independent expert panel which generated a high-profile definition has anthropocentricised ecocide by positioning human interests as the central fulcrum in its formulation (by permitting social and economic benefits to be used to outweigh severe environmental harm and therefore exclude it from qualifying as ecocide, as set out in the IEP definition discussed below). Similarly, adherents to the relational ontology approach have insisted on the 'inseparability' of humans from nature (see Hamilton, 2024, p. 30 – 'I align myself with the Panel's view that a balancing test is an essential part of any ecocide definition', and 49 arguing that a 'balancing test' formulation of ecocide is preferable to alternative formulations such as listing underlying acts of ecocide, and that any "balancing test should embed the inseparability of humans from nature'). In so doing, they have locked human interests into both side of the balancing equation of the IEP definition of ecocide.

Despite being well-intentioned, these efforts by the IEP and the relational ontology school may exacerbate the anthropocentricisation of ecocide. This article seeks to identify those risks, situate them in a typology of approches to ecocide, and propose means of mitigating them in light of that conceptualisation. The article uses the theoretical framework of co-optation, as a means to assess the colonisation of ecocide by human interests.

Co-optation consists of established power structures (whether at the domestic or international levels) using 'apparently cooperative practices to absorb those who seek change – to make them work with elites without ascribing them any new advantages' (Holdo, 2019, pp. 444–445). Co-optation lends itself to the current inquiry, as it addresses the incorporation of the aims of social movements into existing organisations. This is not to suggest that any of those in favour of adopting ecocide is deliberately seeking to subvert the ecocide movement. Instead, the risk is a function of the prevailing anthropocentric systemic orientation of international criminal law towards protecting humans and their property (Gillett, 2022, pp. 310–311).

Despite the risks of co-optation, this article supports ecocide's incorporation into the Rome Statute framework, subject to important caveats. It argues that if ecocide is incorporated carefully and strategically it can provide the advantages to the ecocentric strand of the ecocide social movement while also respecting the axiomatic rules of international criminal law. By formulating its elements in an ecocentrically informed and legally robust manner, ecocide can add a coherent but new focus to complement, rather than duplicate, the existing anthropocentric crimes under the Rome Statute. In this way, a state of balanced strategic co-optation between the movement to end ecocide and the International Criminal Court can be reached, to the benefit of both.

Whereas the doctrinal challenges of translating environmental harm into international criminal law have been explored (Branch & Minkova, 2023, p. 53; Killean and Short 2023, p. 13), the underlying conceptual implications of the various formulations of ecocide have received far less attention. Examining how ecocide can be formulated in accordance with the theory of strategic co-optation presents a novel approach to the conceptual issues underpinning ecocide. It also provides the conceptual platform for a defensible formulation of ecocide, which is an important contribution to contemporary efforts to criminalise serious harm to nature.

The debate is significant. Listing ecocide as an international crime sends a major symbolic message by attributing it with the status of one of the gravest crimes known the humankind. Inserting ecocide into the Rome Statute also means that the crime can be referred to the Court by the Security Council, irrespective of whether or not the territorial or national State consents, which provides an extra route to enforcement. At the normative level, it means that the relevant principles of environmental law (those encompassed within ecocide such as the precautionary principle, and the requirement of environmental impact assessments; Gillett, 2024) would be indirectly elevated to enforceable obligations insofar as their breach was linked to ecocidal acts. Given that international environmental law is largely consent-based and cooperative in nature rather than prohibitive (Robinson, 2022), the conversion of these facets into mandatory rules would herald a seismic shift. Exclusive mediation of serious harms to the environment via domestic state structures (often the very structures responsible for the harms) would be ruptured in favour of multi-polarity accountability.

Given these symbolic and practical implications, the ecocentric or anthropocentric framing and formulation of the crime is all the more consequential. International environmental law has already been caste as anthropocentric by some commentators (Robinson, 2024). If ecocide also assumes a human-centred form, then the suppression of ecocentric protection will be aggravated. The Rome Statute will remain focused on the suffering of humans without any applicability to environmental harm in and of itself,

rendering the value protected by the Statute as 'man, alone by himself' to borrow Nietzsche's phrase (Nietzsche, 1878, Section IX). Conversely, if ecocide is given an ecocentric formulation it will allow the elevation of ecocentric principles from the consent-based realm to the mandatory. That latter approach would allow the movement to end ecocide and the Court itself to enjoy a measure of strategic co-optation and provide a basis to effectively protect the environment.

While highlighting the importance of the issue of ecocide, it must be noted that international criminal law is no panacea. Simply adopting a crime of ecocide will not end all serious environmental harm. Nonetheless, its adoption can serve an expressive function, conveying a powerful message about the moral and legal limits on behaviour and the gravity of attacks on nature (Anderson & Pildes, 2000, p. 1561; Palarczyk, 2023, p. 59; Sander, 2019, p. 851; Sunstein, 2021).

After this introductory section, part II of the analysis sets out the ecocentric underpinnings of the ecocide movement. Part III then synthesises the various approaches to ecocide, classifying them and examining their relative anthropocentricity and ecocentricity. In part IV, the analysis unpacks the theory of co-optation and its assimilative and strategic variations, as applied to the ecocentric anti-ecocide movement. Part V then zooms in on key elements of ecocide and examines how they can be best formulated to facilitate strategic co-optation. Finally, part VI sets out overarching conclusions that can be drawn for the prospects of incorporating ecocide in a mutually advantageous manner.

2. The ecocentric ontology of ecocide

The ecocide movement is heterogenous and a variety of formulations of the crime and the motivating interests behind it can be discerned. As the present analysis focuses on the diametric opposition of the terms 'ecocentric' and 'anthropocentric', it is important to note that ′ecocentric′ refers the attribution of intrinsic value to the environment going beyond its utility for human interests and the prioritisation of those ecological values (Jensen, 2005, pp. 151–152; Gillett, 2022, p. 13; Pereira, 2015, pp. 51–52). Conversely, 'anthropocentric' denotes the prioritisation of human interests and harm to human beings (Gillett, 2022, pp. 12–13).

Within this overarching binary, there are various sub-movements focused on the environment, such as conservationists, who are concerned with the environment as a whole and so will justify harm to individual animals if it is in the interest of the wider ecosystem (such as through deer culling) (Rawles, 2003, p. 101). Conservationists may be ecocentric or anthropocentric depending on whether they view the environment as having intrinsic value worthy of prioritisation over human interests such as economic or infrastructural development. Separately, there are animal welfarists who are concerned with preventing the unnecessary suffering of individual animals, animal rights adherents, who seek recognition of animals as subjects of rights and due inherent dignity as beings, as well as abolitionists, who seek to end practices such as vivisection and animal farming for human use completely (Kurki, 2024; Rawles, 2003). Each of these movements has ecocentric elements, though some also entertain anthropocentric aspects, particularly the animal welfare strand.

Under prevailing views prior to the 1970s, the environment was seen and valued as a resource, and was typically only granted protection to the extent that it was of benefit to

humans (Schmitt, 1997, p. 6). However, the Vietnam War in the 1970s coincided with a growing environmental consciousness, which has led to many groups adopting a more ecocentric orientation and valuing the environment in and of itself. When it comes to ecocide, scholars have noted the divergent understandings of whether it is anthropocentric or ecocentric in nature (Tsilonis, 2024, p. 273) ('these definitions do not seem to agree on the nature of the crime itself: whether it should protect the environment as a means for human existence (and adopt an anthropocentric approach) or protect the environment per se (and adopt an ecocentric approach)'). This is partly a reflection of the heterogenous formulations, and underlying conceptions, of ecocide. However, from the earliest conceptions of ecocide, there has been a strong and continuous strand that envisages it as ecocentric in nature.

The idea of a prohibition of ecocide is widely seen as emerging during the Vietnam War, in response to the use of Agent Orange and other chemical defoliants to remove forest cover from large tracts of Vietnam and Cambodia (Killean, 2025, p. 3; Falk, 1973, p. 4). At that time, proponents already recognised ecocide's value as a means to protect the environment in and of itself (Fried, 1972, pp. 43–44). Over following decades, other commentators underlined the ecocentric normative motivation for ecocide. For example, Cabanes' proposed ecocide amendments, while linking the crime to human suffering in some instances, provide the environment with its own free-standing value (see preamble '[c]onscious that parts and systems of the environment, referred to herein as the global commons, cannot be said to belong to any nation(s) nor to any generation(s) of human beings'). Neyret concurs that the protection of the planet itself is the normative basis for an autonomous legal offence (Neyret, 2014, pp. 182–183). Killean and Newton highlight that '[p]roponents of ecocide have argued that its criminalisation could assist in 'transform[ing] our understanding of nature from property to an equal partner with humans'' (Killean & Newton, 2024, p. 3). Summing up the movement, Hamilton recognises that '[t]his ecocentric assumption underpins the understanding of many civil society proponents of ecocide who believe that ecocide should criminalise harm to the environment as a *per se* harm.' (Hamilton, 2024, p. 34). Whilst ecocentricism is not the only lens through which ecocide has been conceptualised, and there has often been a mixing of human and environmental interests (as detailed below), it evidences the existence of an undeniably ecocentric motivation as one of the key driving forces behind the movement to adopt ecocide.

However, that ecocentric underlying rationale for ecocide is being eroded, as other motivations crowd the conversation. Some of the leading formulations of ecocide include pivotal references to anthropocentric interests. That shift towards a human-centred orientation imports risks of the legal notion being co-opted, just as other social movements have been in the past (Killean & Short, 2023, p. 10). At the practical level, there are also implications of this anthropocentric shift. Deprioritising environmental interests led to its destruction by the FARC forces, as set out above. With a diluted definition, Tsilonis notes that 'giant trawler shedding 100,000 dead fish into the Atlantic Ocean' would not be prosecuted under an anthropocentric conception of ecocide (Tsilonis, 2024, pp. 265–279). Proponents of ecocide must be attentive to its 'framing', because the 'selection of what is considered legally important or relevant' also makes visible by omission the 'muted or even invisible "others"') (Grear, 2012, p. 18; Heri, 2025, p. 2). In this way, the specifics of the doctrinal formulation will

directly impact on the ultimate effect of the normative provision – either establishing a free-standing protection for the environment on its own merits or conditioning such protection on utility for anthropocentric ends.

Moreover, the discussion is occurring against the backdrop of ongoing challenges to the international criminal justice project as a whole. This challenge comes in part from a cluster of approaches falling into the critical legal studies tradition, built on post-modernist philosophies. Typical of this approach is the work of Cusato and Jones, which points to shortcomings of the ecocide project and argues that it must be jettisoned in toto (Cusato & Jones, 2023, pp. 1–20). Commentators zealously adhering to the critical legal studies vein provide limited utility for the overarching assessment of how to make ecocide an effective tool of the international criminal system, as their mantra is to disrupt the system and any operations under that system, as a whole. However, the critiques must be noted, as there are equally vociferous attacks on the international criminal justice project emanating from protectionist and nativist governments around the world, including those in Russia, the USA, and Israel, which have all sanctioned ICC judges for fulfilling their duties. Together, these flanking attacks leave the ICC on a tightrope in its quest to achieve justice through fair and impartial proceedings.

With these cautions in mind, the study now turns to the various formulations of ecocide and assesses the main approaches, where they lie on the eco versus anthropocentric scale, and what implications they each carry for the efficacy of ecocide and the driving motivation to enhance environmental protection.

3. A typology of conceptual approaches to ecocide

At the core of this analysis is the formulation of ecocide as the proposed fifth crime under the Rome Statute. In this respect, ecocide has been called a 'normative battleground' (Hamilton, 2024, pp. 49–50). Amongst the various definitions of ecocide, several primary streams can be discerned. Identifying the implications for the eco – and anthropo-centricity of each stream is apposite to assess how ecocide can retain the underlying ecocentric motivation when incorporated into the Rome Statute. To this end, a typology of the conceptual approaches to ecocide is set out below.

Given the variety of proposals for ecocide, it is necessary to group them in order to assess the major strands in an accessible manner. The labels given to these streams are the author's own nomenclature, based on the overarching character and effect of each approach rather than any specific legal element of each formulation (such as the *actus reus* or *mens rea*). Because the character and effect of the approaches can be assessed along an anthropocentric to ecocentric scale, this analytical framing provides a well-suited means of generating insights for the consequent risks of co-opting the ecocentric rationale behind ecocide. However, the following should not be taken as an exhaustive list of all possible approaches to ecocide. Instead, it is a selected survey of the major proposals emerging from the literature to date, which may well change as the negotiations for the adoption of ecocide under the Rome Statute continue.

It must be noted that previous efforts to enshrine a free-standing environmental crime at the international level, applicable during peace and war, have proven unsuccessful. At the conclusion of efforts to enshrine a free-standing crime of environmental destruction in the Draft Code of Crimes Against the Peace and Security of Mankind, the ILC

rapporteur Tomuschat wrote 'the final text […] now has been emasculated to such an extent that its conditions of applicability will almost never be met even after humankind would have gone through disasters of the most atrocious kind as a consequence of conscious action by persons who were completely aware of the fatal consequences their decisions would entail.' (Tomuschat, 1996; see also Killean & Short, 2023, p. 11).

3.1. Incrementalism

First among the approaches is the incrementalist school. This minimalist stream envisages minor adjustments to existing crimes in order to expand the environmental ambit of the Rome Statute. Because this approach relies on linking to anthropocentric crimes, it has an inherently anthropocentric character. Typical of this incrementalist approach is Steven Freeland who argues that 'it would not be appropriate to manipulate or dilute the focus of the core international crimes away from the egregious violation of human rights with which they already deal' (Freeland, 2015, pp. 226–227). Starting from this premise of maintaining the 'focus' of the existing core crimes, he seeks to signal the Court's concern for the environment without jeopardising its existing jurisdictional reach and efficacy. He proposes a war crime of 'employing . . . a method or means of warfare [with intent to cause widespread, long-term or severe damage to the natural environment]' (Freeland, 2015, p. 245). By expanding the parameters of an existing war crime, rather than creating a whole new category of crime, Freeland's approach prioritises pragmatism and minimal disruption to the Court's established normative matrix.

The accretive strategy adopted by the incrementalist school has precedent in the International Law Commission's Draft Crimes Against Peace and Security of Mankind. Despite considering a free-standing crime against the environment, as noted above, the International Law Commission ultimately only referred to the environment in a war crime that essentially builds on Article 35(3) of Additional Protocol I. Another leading instrument, the ENMOD Convention, also limits the prohibition to harm to the environment caused by military (or otherwise hostile) uses of the environment (ENMOD, 1977, Article 1).

The incrementalist approach is reflected in recent moves to include a form of environmental harm as an underlying offence in the proposed new treaty on crime against humanity (IUCN Proposal 2025; Prospieri & Terrosi, 2017, p. 509). These moves seek to leverage the presence of existing crimes in the Rome Statute and the momentum towards adopting a Convention on Crimes Against Humanity. However, by adopting them as underlying crimes against humanity, this approach would condition the prosecution of environmental harm on the targeting of humans (due to the requirement of showing the contextual element of an attack on a civilian population) (Rome Statute, Article 7(2)(a)).

An even more normatively minimalist approach is advocated by Danuta Palarczyk. Highlighting the differing underlying values of international environmental law and international criminal law, she argues that the Court should infuse its current framework with environmental values and utilise existing crimes to address environmental harm rather than adding ecocide as another crime (Palarczyk, 2023, pp. 147–207). While the incorporation of environmental values will assist the Court's capacity and procedural posture to address attacks on nature, the eschewing of adding any new crime to the

Court's *rationae materiae* will limit the fundamental scope of any proceedings for environmental harm to the existing crimes, all of which are essentially anthropocentric in orientation.

Although the cautious incrementalist approach seeks to maximise the likelihood of an amendment being adopted, it is far from clear that it would lead to more environmental harm prosecutions. There were virtually no prosecutions for environmental harm during the post-World War Two trials nor have these eventuated with resurgence of international criminal trials in the 1990s (Brady & Re, 2018; Sarlième, 2021, p. 5). While there were at least two prosecutions involving environmental harm linked to World War Two (Rendulic and Alfred Jödl, 1948, paras. 188, 191, 193–194), Rendulic was acquitted on the basis that he may have genuinely not appreciated the severity of the harm, whereas Jödl was convicted by the International Military Commission in part for his involvement in the widespread destruction inflicted by the German army's scorched earth tactics in Norway. Whereas there have been charges for environmental harm in recent years at the Colombian Special Jurisdiction for Peace (JEP, 2023, paras. 500, 1029-1030), these have been small in number and focused on war crimes (and the contextual elements of crimes against humanity).

In that light, the incrementalist school exhibits a largely anthropocentric inclination, which risks conditioning the prosecution of environmental harm on the commission of crimes against humans or their property, thereby sending the message that harms to nature only matter if, and to the extent that, humans suffer harm.

3.2. Relational ontology school

A school that engages deeply with ecological harm is that of relational ontology. It rests on the central tenet that humans and nature are inherently and inseparably linked, particularly indigenous humans. This reflects a philosophy informed by indigenous cosmovisions, holding that '[a]ll elements on Earth are interconnected; one is dependent on the other and deserves inherent value, respect, and caring based on "principles for good relational living"' (Hossain, 2024, pp. 315-330, 317; Snively & Williams, 2016). Indigenous views on ecocide often highlight links between severe environmental harm and 'settler colonialism' and decry extractivism. At the same time, indigenous approaches are heterogenous, with some advocating a widening of ecocide to include terricide – namely the systematic destruction of all life forms, encompassing tangible as well as spiritual ecosystems (Mapuche Indigenous leader, 2021). A reoccurring feature of indigenous approaches to ecocide is a rejection of Western divisions between culture and nature, as well as arguments that ecocide merges into genocide and ethnocide when it comes to indigenous groups subjected to violence from external groups and from capitalist systems (Bacca, 2015; Sanchez De Jaegher, 2024).

There is a long history of fusing relational ontology with formulations of ecocide. Richard Falk, one of the first to formulate ecocide, links humans and nature by defining ecocide as acts to "disrupt or destroy, in whole or in part, a *human ecosystem*' (Falk, 1973, Article II). However, this last term is 'vague and undefined' according to Sarlième (Sarlième, 2021, p. 4). Examinations of the possibility of a form of ecocide conducted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities that arose during reviews of the genocide convention in 1978 and 1985 (the latter was

referred to as the Whitaker Report (1978, para. 464; Killean & Short, 2023, p. 3)) referred to Falk's definition and produced approaches centred on protecting indigenous peoples (Sarlième, 2021, pp. 4–5). However, that approach did not result in a form of ecocide being adopted (Gauger et al., 2013, p. 8).

A more recent work falling into the relational ontology rubric is that of Hamilton, who declares that 'humans are inseparable from the natural world.' That dogma echoes the currently ubiquitous 'more than human' movement (Maller, 2021). Hamilton argues that notions of the separability of humans and the environment are flawed and will pit them against each other, and that this clash will bear heightened risks for marginalised groups, such as indigenous persons. According to her, the inseparability position 'means any severe and widespread/long-term damage to the environment will necessarily also entail harm to humans', which means that for ecocide 'both these harms [harm to the environment and to humans] [must] weighed against any social and economic benefits to humans.' (Hamilton, 2024, p. 40). The claim that 'humans are inseparable from nature' is of course a truism in a broader contextual sense, as humans rely on natural resources to survive. However, the converse is not true, as nature does not rely on humans to thrive. Consequently, it is a non-sequitur to argue that legal assessments of harm to nature must incorporate human interests.

While Hamilton's approach is designed to maximise the protection of certain human groups, it does so by tying environmental harm to harm to humans. In this way, Hamilton places anthropocentric harm on both sides of the scale in the assessment of ecocide. As she states, her approach forces 'both these harms [to nature and to humans]' to be considered against the benefits to humans. The inevitable result of that approach would be that the prism of human suffering is imposed as the lens through which ecocide is viewed – thereby anthropocentricising ecocide. Consequently, in presenting ecocide as an instrument to further 'intersectional justice' (Hamilton, 2024, p. 43), Hamilton is effectively using it as a tool for anthropocentric purposes. At the same time, it is clear that there has been great harm brought upon indigenous communities around the World, and this often links to destruction of the environment through activities such as land grabbing, deforestation and toxic dumping But instead of anthropocentrising ecocide, the present study seeks to maximise environmental protections while also ensuring that existing anthropocentric prohibitions, such as persecution and other inhumane acts, are fully utilised to protect indigenous groups and others who are subject to these crimes.

Others have already warned of the unintended effects of the relationship between indigenous cosmovisions and rights of nature being used strategically (Tănăsescu, 2024, p. 429). The instrumentalisation of ecocide for anthropocentric ends carries with it normative trade-offs. It moves the focus of discussion from the nature and the extent of harm to the environment *per se* towards a 'multi-layered' analysis of which human groups are more impacted than others by environmental harm. In this way, it would be the harm to humans, or certain groups of humans, that ultimately determines which environmental harm merits attention; relegating to a secondary status the impact on nature. The consequent risks of symbolically subordinating environmental values to human interests, and the eventual co-optation of the ecocentric movement would be heightened, as humans would be divided up in order to demonstrate their group's relative environmental victimisation.

Relational ontology reflects the broader 'turn to rights' in climate litigation and environmental harm, which approaches attacks on nature through the gateway of human rights (Heri, 2025, p. 1; Peel & Osofsky, 2018). This movement builds on Christopher Stone's seminal 1972 article *Should Trees Have Standing*, as he advocated for natural objects to enjoy legal rights (Stone, 1972, p. 450). In the 1980s, Nash provided moral justifications for extending rights to nature, analogising with the extension of suffrage and legal recognition to slaves, women and other human groups through history (Nash, 1989). Bridging the gap between humans and non-humans, Naffine points to conceptions of legal personhood that are based purely on the recognition of an entity as being 'legally-endowed' to bear rights and duties in law, separate from the metaphysical existence as a human being or the mental capacity of the entity (Nash, 1989, p. 366). Conversely, Tănăsescu sees nature as qualifying as a legal entity rather than a legal person, in order to avoid anthropocentricising the protection of nature by conditioning it on achieving legal person status (Tănăsescu, 2024, p. 448). Whether this turn to rights is viewed as anthropomorphising nature to fit into legal strictures or ecocentricising the legal structures to better address harm to nature, it necessarily channels environmental claims through human-centred frameworks designed to address harm to natural human beings. The label of 'human rights' is a particularly apt reminder in this respect.

Yet critiques have already been raised about the limitations of the human rights paradigm for protecting nature (Lostal, 2024). Merging the concepts of humanity and nature may generate moral and legal hazards. Fundamentally, when it comes to generating norms to enhance environmental protection, definitional precision is essential. Unintended consequences can arise from blurring core conceptual distinctions. If the natural environment includes humans (as provided by the IEP definition of the environment as including the biosphere for example – see below) then severe harm to humans which is also widespread or long-term would theoretically be covered, even if those humans were living in major urban areas. The removal of the distinction between humans and nature increases the risk that the human facet comes to dominate assessments. This is particularly acute as human groups can advocate for themselves, leading to the interests of human groups being prioritised over those of non-human phenomenon placed in the same conceptual basket (Lostal, 2024). This would heighten the risk of assimilative co-optation of the ecocentric movement for ecocide, as discussed below. Indeed, on a parallel track, the rights of nature discourse has increasingly recognised the threat of environmental justice movements being co-opted into pre-existing structures, including international law (Gilbert et al., 2023, pp. 51-52).

Taken to its logical conclusion, the application of anthropocentric frameworks to non-human entities revives the once dominant philosophy of animism. Animism refers to belief systems that ascribe agency to all material phenomena, including flora, fauna, rocks, rivers and other geographic features. Human cultures across all regions of the World have held animist beliefs, from the ancient Mesopotamians and Romans (Bailey, 1932), to the New World, and such beliefs persist in some societies to the present day. Despite falling out of fashion, the study of animism has been given a new lease on life in the 21st Century under the guise of neo-animism, which verges into relational ontology (von Stuckrad, 2023). These new iterations place more emphasis on the relational vector than the metaphysical views at the core of animism (Naffine, 2003, p.

352). Nonetheless, their ontology features the foundational principle of ascribing agency to all entities and they focus on breaking down binaries between humans and nature. Irrespective of the merits of these belief systems as a moral or political matter, in the legal realm there are conceptual and functional risks inherent in definitionally merging humans and the natural environment and in treating the environment as though it were a human being, particularly in terms of allowing human interests to dominate legal assessments of harm to the environment.

Given the myriad attacks on indigenous groups, particularly those who protect the environment (United Nations Working Group on Arbitrary Detention, 2023, paragraphs 55-58), the motivation to enhance their protection is strong. However, diluting the environmental focus of ecocide so that it also includes human groups who are considered closely connected to the natural environment also undermines the force and focus of the newly proposed crime when it comes to protecting nature in its non-human sense. Where indigenous groups are targeted, protections exist, such as the crime against humanity of persecution, other inhumane acts, and forcible displacement (Rome Statute, Article 7(1)(d), (h), and (i) respectively), as well as genocide, as has been highlighted in relation to the victimisation of indigenous groups (Bacca, 2015). There are also human rights protections, such as Article 2 and 26 of the ICCPR and the UNDRIP. Conversely, there are no crimes under international law designed to address environmental harm (Megret, 2013) other than the war crime under Article 8(2)(b)(iv), which ultimately includes a balancing test that prioritises human interests by directing that no crime is established if a military advantage could conceivably justify the ecological harm (there are several other international crimes which can be indirectly used to address environmental harm, but they are not designed for that purpose; Gillett, 2022, Chapter 2). In this light, greater efficacy in implementing the many existing protections for human groups is a more promising route to justice for humans and nature than overloading ecocide with the additional burden of protecting human groups to the detriment of one of its core purposes – protecting nature.

3.3. Social utility school

A distinct school of thought is that which ascribes value to the natural environment based on its utility to human beings. This differs from the relational ontology approach, as it explicitly grants primacy to human interests and makes environmental protection conditional on and co-extensive with its value as a resource for humans. Although they were designed to increase environmental protection, the seeds of the social-utility school can be seen in the 1972 UN Stockholm Conference on the Human Environment and the 1992 Rio conference, as their declarations linked the saving of nature to its 'sustainable' use for humans (Stokholm Declaration, Principle 2; Rio Declaration, Principles 1 and 3).

A leading definition in this stream is that of the independent expert panel (IEP). Although is the IEP definition intended to increase environmental protection, its formulation means environmental protection is only provided to the extent that the environmental harm exceeds what is useful for human ends. This arises because of the IEP's use of the term 'wanton' as a pivotal 'balancing test' (Hamilton, 2024, p. 5). By

defining 'wanton' idiosyncratically to mean 'with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated', the IEP departs from the established use of this term in international humanitarian law. More significantly, the 'wanton' balancing test positions human interests as the primary determinant of ecocide (the 'wanton' test will be the key element, apart from if the alleged ecocidal act is unlawful *per se*). This elevates the anthropocentric over the ecocentric rationale for ecocide. Indeed, IEP member Christina Voigt has explicitly acknowledged that the IEP included an anthropocentric core element in its formulation of ecocide, stating 'a definition adopting an exclusively ecocentric approach […] could perhaps have given a stronger environmental signal but might have been detrimental to the likelihood for being adopted' (Voigt, 2021). Other commentators have also advocated for the centring of human interests in environmental crimes so as to render them applicable under ICC's framework (Prospieri & Terrosi, 2017, p. 509 – although they do not directly address ecocide, it is notable that they conclude that it is precisely the humane factor in environmental crimes which makes them conceivable for ICC proceedings).

This explicitly anthropocentric approach to ecocide has been criticised by Minkova, who argues that the inclusion the 'wanton' balancing test undermines the expressive power of ecocide (Minkova, 2024, pp. 14–15). Similarly, Burke and Celermajer argue that this 'furthers the human-centred privilege' (Burke & Celermajer, 2021). Killean and Short argue that 'a stronger [than the IEP] starting position might have been more in keeping with the environmental justice goals of ecocide campaigners' (Killean & Short, 2023, pp. 5–6). These concerns about side-lining ecocentric interests dovetail with the risk of an assimilative co-optation of the ecocide movement through its incorporation into the international criminal law framework, as explored in greater detail below.

3.4. Legalistic school

A further stream of thought is the legalistic school. Commentators in this stream seek to provide more detailed guidance as to what conduct is transgressive (and thereby enhance the deterrent effect of criminalising ecocide) by enumerating the underlying acts of ecocide. In this way, the public and the international community will be apprised as to what ecocide consists of, in compliance with the due process requirement of avoiding overly vague and imprecise definitions of criminal sanctions (see ICCPR, Article 15; Human Rights Committee, general comment No. 35 (2014), para. 22; UN Working Group on Arbitrary Detention, Opinion No. 75/2021 concerning Ros Sokhet (Cambodia), para.63; ECtHR: *Kokkinakis v. Greece* (Request no. 14307/88), para. 52, 2024). Killean and Short note that enumerating underlying acts of ecocide has the benefits of certainty and predictability and highlight the 'expressive value in declaring the behaviour that is deemed unacceptable' (Killean & Short, 2023, p. 4, noting that 'listing prohibited acts provides greater certainty and predictability than the formulaic approach'; Gupta, 2021; Robinson, 2022). They expressly disavow a definition based on the social utility equation, in order to 'avoid a cost versus benefit analysis'.

Typical of the legalistic approach is the formulation of Neyret et al., which enumerates specific underlying acts of ecocide, while also ensuring a primary focus on harm to the

environment through its overarching description of ecocide as 'acts which threaten the security of the planet.'

Although the listing of underlying offences enhances ecocide's compliance with fair trial guarantees, an element of Neyret's definition which could raise legality challenge is the mental element of "should have known", which arguably amounts to a negligence threshold (ICC: Prosecutor v. Jean-Pierre Bemba, 2009, para. 427–434). The "should have known" standard is comparable that for command responsibility of military leaders under Article 28 of the Rome Statute ("owing to the circumstances at the time, should have known"), which was held to equate to negligence and Article 7(3) of the ICTY Statute, the latter of which was held to be distinct from a negligence standard (ICTY: Prosecutor v Blaškić (Judgement), 2004, para. 62). However, for an underlying crime, such a broad standard deviates from the Rome Statute's usual insistence on either direct or indirect intentionality and could be seen as reviving the pure negligence standard which was rejected during negotiations of the Rome Statute and is generally seen as incompatible with international criminal law's fairness protections, and could compound with a superior's 'should have known' standard under Article 28, leading to liability for failure to anticipate another's failure to anticipate environmental harm, potentially conflicting with limits on individual criminal responsibility (Drumbl, 2000, p. 330; but see McCaffrey, 2008, p. 1030; Branch & Minkova, 2023, pp. 54–56 (arguing that relaxing the *mens rea* standard to include negligence or lower forms of recklessness might be rejected by Judges insisting on strict legality)).

The author's own definition of ecocide seeks to uphold the principle of legality by listing enumerated acts in order to guide public conduct and adhere to the principle of legality (Gillett, 2022, pp. 348–350; Gillett et al., 2025, pp. 23–25). These approaches can be seen as ecocentric, in that the environment is given free-standing protection, human interests are not privileged above those of the environment, and harms to humans are not listed among the underlying acts of ecocide. In this way, these approaches squarely focus on the protection of the environment without diluting this to include harms to humans as well. Whereas a counterargument could be laid that the legality exception to the current author's formulation of ecocide means it is anthropocentric, it must be noted that, because it is framed as an exception, this does not change the fundamentally ecocentric nature of the formulation. Indeed, if the requisite harm to the environment and mental state are demonstrated, then the crime of ecocide will be established and an accused will only be able to escape liability in the exceptional cases where the activity was legal at both the international and domestic levels. Even this residual exception is framed with the environment in mind, as it emphasises the need for compliance with '*particularly international environmental law*'.

A critique of the legalistic school is that enumerating underlying acts risks being 'too limiting, and potentially carrying the notion of 'justifying' acts that are not explicitly listed' or excluding acts which 'might not even be foreseeable from our current state of knowledge' (Voigt, 2021). Both these concerns are addressed in the enumerated formulations of ecocide which include a residual category of underlying ecocidal acts, akin to the crime against humanity of 'other inhumane acts' (Gillett et al., 2025, pp. 23–25; Killean and Short 2023, p. 13). To avoid a legality challenge against that residual underlying form, the current author frames it in line with the preceding offences and with a qualifying threshold, in a similar manner to the underlying crime against humanity of

other inhumane acts, which has been upheld as sufficiently precise (ICC: *The Prosecutor v. Dominic Ongwen*, Appeal Judgment, 2021).

An additional critique of the legalistic approach comes from Hamilton of the relational ontology school. Though cognizant of the *nullum crimen sine lege* risk, she argues that uncertainty cannot be dispelled by enumerating underlying acts of ecocide and therefore she prefers a more generalised approach broadly akin to that of the IEP (albeit adapted to emphasise the suffering of certain human groups). This critique is misconceived. First, its upshot – that adding more specificity to the crime's definition is not an appropriate way of countering a lack of specificity – is contrary to fundamental legal principles. Indeed, the critique of the enumerated approach to ecocide ignores that the enumerated formulation is structurally similar to the existing crimes in the Rome Statute, with an overarching description (chapeau) and a list of underlying acts. No major commentator has argued that the existing crimes listed in the Rome Statute are all overly vague and therefore invalid. Consequently, it is incongruent to argue that a similarly enumerated version of ecocide would be impermissibly lacking in specificity.

Second, while placing human interests at the centre of the prosecutable definition of ecocide, Hamilton makes no attempt to square her own approach with the principle of legality. Equally, she does not seek to reconcile her unenumerated approach with the general public's legitimate interest in knowing the underlying conduct that constitutes ecocide. Given that her approach funnels ecocide through the prism of anthropocentric interests, as explained above, the result is a strange mix whereby the general public is given less protection against impermissibly vague criminal sanction, but the environment is also given less protection by essentially conditioning the application of ecocide on a showing of harm to certain human groups (on the risks of new criminal offences violating the principle of legality, see Malby, 2024).

Anthropocentrism can be a valuable end in and of itself, and is the driving force behind the vast majority of the existing crimes under the Rome Statute (Gillett, 2022, pp. 310–311; Sharp, 1999, p. 217). But its insertion into ecocide risks removing the unique ecocentric utility of this newly proposed crime. From an expressive perspective, allowing for a vague formulation without enumerated acts to guide its application will create the dual risk of 'on the one hand raising doubt about whether the accused deserved such harsh punishment while, on the other, creating an incentive for judges to refrain from relying on controversial provisions.' (Branch & Minkova, 2023, p. 57). Systemically, the failure to adhere to primordial legal foundations, such as the principle of legality, will undermine the very system that is being called on to protect the environment via the crime of ecocide. The corollary would be the loss of the imprimatur of the status of legal protection. As the ICJ has observed '[l]aw exists, it is said, to serve a social need; but precisely for that reason it can do so only through and within the limits of its own discipline. Otherwise, it is not a legal service that would be rendered.' (ICJ: South West Africa Case, Judgment of 1966, para. 49).

On a pragmatic note, critics of the legalistic school point to the need to maintain the widest possible definition due to the potential 'watering down' effect of international negotiations with 'powerful oppositional interests from the governmental and corporate world' looking to weaken and limit the scope of ecocide (Killean & Short, 2023, p. 13). While this is a valid concern, as shown by past negotiations of ecocide prohibitions (or similar types of prohibitions), lurching to the opposing approach of advocating a

broad definition of ecocide without guardrails may also provide grist to the mill of those seeking to undermine the adoption of ecocide, by allowing them to argue that any development project could potentially be criminalised, including the construction of transport networks and manufacturing plants. In this respect, it is important to distinguish between operational constraints, such as how to calculate proportionate contribution to CO2 emissions, market substitution, and similar technical details, which are not necessarily matters the Courts need to definitively resolve (*Milieudefensie and Others v. Royal Dutch Shell*; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, 2024), and fundamental legal principles such as *nullum crimen sine lege*. Ecocide should not be derailed by the former, but must respect the latter.

3.5. Ecocentric primacy

Against the backdrop of the Anthropocene, namely an 'epoch of geological time in which human behaviours are profoundly impacting Earth systems, including particularly through climate change' (Heri, 2025, p. 2; Kotzé, 2019, p. 6796), some commentators seek to enshrine ecocide as a protection against the harming of nature irrespective of any anthropocentric interests. These approaches do not enumerate underlying acts of ecocide but also lower essential elements such as the *mens rea* to create the widest possible net of accountability for any acts that objectively could harm the environment. This can be termed the ecocentric primacy approach, as it elevates the interests of environmental protection over any countervailing anthropocentric concerns, including those fundamental considerations of legality.

An example is the 'End Ecocide on Earth' formulation presented by Valérie Cabanes in 2013. This professes to using an ecosystemic approach, seeking to grant rights to nature, and takes the form of 17 amendments of the Rome Statute. Ecocide is formulated by this group as encompassing 'any person [...] who causes severe damage to: (a) any part or system of the global commons, or (b) an Earth's ecological system', with severe damage defined as that which 'exceeds planetary boundaries, or the violation of any international treaty covering the global commons' (Exceeds planetary limits means 'to interfere with or alter any part of the environment in a manner that exceeds the limits defined pursuant to paragraph 12 per se, or would exceed these defined limits if repeated en masse and at the same rate by the rest of humanity, including but not limited to interferences and alterations').

The approach is ecocentric in multiple respects, as it 'promulgates general duty of care for ecocide crimes and victims', does not require intent or knowledge on part of accused (stating in the definition of proposed Article 8*ter*(2) 'without consideration of the state of mind of the person responsible') and includes not just environmental damage but also the consequential environmental effects as well as the increased risk of consequential environmental effects. From these aspects and the references to protecting biogeochemical cycles, animal and plant gene pools without any reference to human utility, the formulation gives virtually complete primacy to ecocentric formulations. In accordance with that ecocentric primacy, no safeguards against overcriminalisation are included, with even the most limited *mens rea* formulations omitted in favour of strict liability. While strongly motivated to protect the environment, the omission of even basic criminal law protections is manifestly incompatible

with the axiomatic principles of the Rome Statute system such as the need for a culpable mental state to accompany acts causing harm (Rome Statute, Articles 21(3), 30) which has been required for all crimes prosecuted at the international level to date.

3.6. Conclusion on typology of ecocide formulations

Based on the foregoing, it can be seen that there is a spectrum of conceptual approaches to ecocide which range in degree of anthropocentricisation. Whereas the social utility school prioritises human interests over the environment, the incrementalist and relational ontology schools essentially reach broadly the same position despite this not being their intended effect. At the other end of the scale, the ecocentric primacy stream eschews any and all human-centred considerations. However, it does so at the cost of fundamental principles such as the culpable mental element usually required in international criminal law. The post-modern critiques call for radical disruption or reimagination of the international criminal law project but do not offer any specific formulation of ecocide capable of application under the existing framework of international law. Between these extremes, sits the legalistic school, which seeks to expand the Court's reach over environmental harm while adhering to its core due process safeguards. With that typology of approaches to ecocide set out, it is apposite to examine how the anthropocentricisation of ecocide definitions may result in the co-optation of the ecocentric movement, and whether ecocide can be incorporated into the International Criminal Court framework in a mutually beneficial manner for the Court and the ecocentric movement.

4. Moving from assimilative co-optation to strategic co-optation

The preceding analysis suggest that ecocide is at risk of being converted into a vehicle for further protecting human interests, rather than focusing predominantly on addressing environmental harm. It is important to understand this process from a theoretical perspective, in order to discern measures that can best facilitate the adoption of ecocide in light of its ecocentric ontology. In this respect, this assimilative anthropocentricisation of the ecocentric strand of the ecocide movement can be seen as a form of ideational co-optation. That co-optation could absorb and undermine part of the impetus behind ecocide. However, the exploration of the theoretical understanding of this risk also highlights means to mitigate those risks and potentially turn them to benefits for the ICC and the ecocentric branch of the ecocide movement. As developed below, if a shift can be made from assimilative co-optation (as far as the author is aware 'assimilative co-optation' is a new term used in this article for the first time. It means the absorption of a social movement into a power structure without change to the power structures established *modus operandi* but requiring the compromise of the core tenets of the social movement to such a degree that is no longer serving its original purpose), towards a more strategic co-optation, this may permit mutual benefits for the ICC and the ecocide movement deriving from the adoption of this newest crime. This superimposition of the theoretical framework of strategic co-optation is timely, given the imminent risk of subverting the ecocentric rationale behind ecocide when adopted into the context of the overwhelmingly anthropocentric ICC (Gillett, 2022, pp. 310–311).

As noted above, co-optation is the process of power structures absorbing movements for change without giving them significant advantages and often to the detriment of the independence and momentum of the social movement (it has also been described as 'form of cooperation where the cooptor grants institutional privileges to the cooptee in return for the cooptee's support of an existing (or emerging) order' (Heimann et al., 2025)). Gamson referred to this process as granting those pressing for social change 'access to the public policy process but without achieving actual policy changes' (Gamson, 1975). This form can be called assimilative co-optation as the external movement seeking access to established decision-making structures is forced to compromise its core character and aims during that process.

Co-optation was explicitly named and illustrated by Selznick's seminal study of the Tennessee Valley Authority. In examining the federal strategy used to successfully complete a project to expand electricity despite strong anti-government sentiment in the agricultural sector of the South of the USA, Selznick noted that co-optation was utilised before the contestation manifested. Selznick observed that, at the abstract level, '[t]he organisational imperatives which define the need for co-optation arise out of a situation in which formal authority is actually or potentially in a state of imbalance with respect to its institutional environment' (Selznick, 1949, p. 260). The fine line between external entities accessing an organisation and those entities being captured also occurs at the international level, both at the inter-State level and between States and non-State actors (Snidal, 2024). This has been exemplified at the World Health Organisation in recent years, as it has sought to integrate the participation of non-State actors in its processes (Berman, 2021). A similar dynamic can be seen at the ICC in relation to environmental harm, where the ecocide movement seeks to influence it to address this threat but in doing so clashes with the Court's normative orientation towards anthropocentric interests.

In the present context, there is a distinct possibility of assimilative co-optation occurring, whereby ecocide is anthropocentricised in order to absorb it into the existing ICC framework with the least disruption possible. Compromises to prioritise human interests in the definition of ecocide, as discussed in detail below, could develop into full-scale co-optation. Co-optation is not necessarily driven by conscious motivations to destroy social movements. Instead, it is the prioritisation of the stabilisation of an institution that can lead to those seeking change being incorporated into decision-making streams while their policies are diluted the point of compromising the essential goals which originally motivated them (Kruck & Zangl, 2019, pp. 318–343). As Holdo notes '[w]hen cooptation is successful, those who seek change alter their positions when working with elites, hoping to gain new strategic advantages through compromising, but those advantages do not come and instead the elites' position prevails.' (Holdo, 2019, p. 444).

A confluence of factors heightens the risk of the assimilative co-optation of ecocide. Power centres in and around the Court (particularly States) are eager for benefits of being seen to take action on environment and receptive to ecocide, but not in an ecocentric form. The preceding typology shows that some civil society organisations seeking regulatory recognition of ecocide are willing to overlook the diluting of the environmental protections and instead bolster arguments by pointing to human-centred interests (this can be seen in the social utility and relational ontology approaches, as well as incrementalist). However, elevating human-centred interests leads to the risk of

symbolically undermining of ecocentric values, which could exacerbate the precise problem at the core of ecocide – deprioritisation of the environment, as noted above.

Yet, co-optation does not have to be destructive of the social movement. For example, Lima explained that, while assimilative co-optation of social movements by institutionalisation is a risk, this process of accessing power structures also presents an opportunity for the social movement to influence core decisions and achieve parts of its policy goals, while also learning deliberative skills that can enhance the repertoire of the social movements and permit ongoing creative agency along with autonomy from the State (Lima, 2020). This mutually beneficial form of interaction is known as strategic co-optation. This form of strategic co-optation differs from cooperation. Whereas even strategic co-optation involves the incorporation of elements of the social movement into the power structures of an organisation, cooperation sees the two entities simply retain their autonomous identities but work together on certain fronts in a non-antagonistic manner without any merging or incorporation necessarily occurring.

For a regularising process to become strategic co-optation, the fundamental facets of each entity must be preserved. For the ecocentric strand of the ecocide movement, this means at minimum seeing a definition of ecocide enacted that provides free-standing protection for the environment irrespective of whether humans or their property are harmed. For the ICC, this means ensuring that any amendment to the Statute does not significantly undermine its ability to prosecute the existing crimes within its jurisdiction.

Co-optation is a dynamic process. In order to discern the stage of integration that has been reached in relation to ecocide, and thereby delineate the possibility of channelling the adoption of ecocide into a strategic co-optation framework, it is useful to apply Coy and Hedeen's four stages of social movement co-optation (Coy & Hedeen, 2005) namely (1) inception and engagement; (2) appropriation of language; (3) assimilation of members; and (4) regulation and response. Although these stages are not beyond dispute and do overlap with each other, they nonetheless provide a useful point of reference in understanding the process of co-optation. The four stages can be readily superimposed on the trajectory of ecocide as an emerging criminal prohibition. In this way, the stages allow for a specific and explicit means of assessing whether and to what extent the ecocentric wing of the ecocide movement has been co-opted.

Reviewing the typology of ecocide set out above, we can see that the first stage has been hurdled, as ecocide is now formally proposed for inclusion as the fifth crime via the proposal of Vanuatu, Fiji and Samoa. From an objective viewpoint, stage two can also be seen as having been self-imposed by at least part of the ecocide movement. The anthropocentric language of human-centred interests has already been adopted in several leading definitions, including that of the IEP (which references harm to a large-number of humans), which has been included in the proposal to the ICC, and Hamilton (who references to vulnerable groups' interests without delineating which groups they are). Through the moves to mutate ecocide to address human interests, and the involvement of leading experts espousing anthropocentric definitions of ecocide in talks as the Assembly of States Parties and other ICC fora, the third stage – assimilation – can also be seen to have been initiated. However, that assimilation is not complete and there are strands of the ecocide movement which continue to advocate for an independent protection for nature, not linked to its impact on humans and

their property. In this sense, the stage arrived at in co-optation depends on who is seen as representing the ecocide movement and whether or not the ecocide movement's goals have actually been transformed to cohere with the existing anthropocentric tenets of the ICC. What is clear is that the fourth stage of regulation has not yet been arrived at. Ecocide has not been adopted formally, and so its anthropocentric reorientation is not yet subject to formal reinforcement as a legal obligation. At this moment, with the definition still being debated and the ecocentric strand of the ecocide movement not having been assimilated per se, there is opportunity for strategic co-optation to be achieved. But that is heavily dependent on how the specific elements of ecocide are formulated, as discussed in detail below.

If the opportunity is taken to ensure that ecocide adheres to its ecocentric ontology, the possibility for strategic co-optation, to the mutual benefit of the Court and the ecocentric strand of the ecocide movement is available.

As noted, the extent to which the ecocentric motivation for ecocide will be subjected to assimilative co-optation versus strategic co-optation depends in large part on the specific terms enshrined in the definition that is ultimately adopted. Consequently, it is necessary to review key specific elements of ecocide and push to defend their ecocentric roots. The following section examines the most significant legal elements of ecocide in this light.

5. Axes of anthropocentricism: how to maximise the prospects of strategic co-optation for ecocide

In assessing how strategic co-optation can be achieved, the key point of reference is that ecocide has been proposed as a legal notion. Consequently, the precise elements of its definition will be the determinants of which values and interests its adoption and implementation promotes, as they will reflect its normative underpinnings (Raz, 2011). With regards to the ecocentric strand of the ecocide movement, the independent value that must be maintained for strategic co-optation to occur is that the crime must be formulated with an ecocentric added-value of independent protection for the environment in order to avoid inherently subordinating the value of the environment to human interests. As for the ICC, its core values are mandated under the Rome Statute, such as the principle of legality and human rights compliance reflected in Article 21(3) and 22, and its ability to adjudicate the existing core crimes, as noted above in Section IV.

To balance those interests, several key vectors of facilitating strategic co-optation are explored below, with a view to ensuring those essential elements guaranteed, so that both sides can avoid co-optation and can potentially enhance the support for their own inherent goals. These factors are not all specifically elements of the proposed crime in the legal sense, though at least the intent and potential enumeration of underlying offences would be. Instead, all are features of the proposed formulations of ecocide which will have a decisive effect on whether ecocide offers, *in abstracto*, independent protection of the environment irrespective of harm to humans and their property. In this sense, these inflection points can be termed the axis of anthropocentricism, and provide essential lenses through which to evaluate the orientation of the crime which is ultimately adopted.

5.1. Intent

On the level of intent required, ecocentric approaches tend to support a lower intent requirement whereas more legalistic and social utility formulations require a higher standard. There are variations. For example, Falk espoused a high level of intent tantamount to that of 'genocide', namely acts 'committed with intent to disrupt or destroy, in whole or in part, a human ecosystem'. However, this would amount to an almost impossible intent standard, equating ecocide with genocide, despite the self-evident differences between these crimes. As Killean and Short note, 'people rarely act with the intention of harming the environment, rather it is a consequence' (Killean & Short, 2023; Robinson, 2021).

Because 'pure' environmental malice is not the essence of the harm being addressed by ecocide, and because it is instead disregard for the environment while seeking human aims, some would argue that the notion has an inherently anthropocentric ontology and therefore ecocide should be formulated at least partly anthropocentrically. However, the lack of regard for the environment is in fact even more reason to ensure that ecocide retains its ecocentric orientation. The utility of placing severe harm to the environment, even if incidental to other aims, on a par with other atrocity crimes, is the symbolic value it ascribes to the environment for its own sake. Conversely, if human interests (whether in development or other social utilities) are permitted to outweigh severe (and widespread or long-term) environmental harm, then that message is not only dissipated but inverted. Incidental harm to the environment becomes a necessary cost of business, only to be condemned if there is no social utility which can be claimed to outweigh it.

Most commentators agree that specific intent is not required, but some criminal level of intent would be (Heller, 2021; Robinson, 2021). Others believe that, because perpetrators of environmental harm are not typically driven by animosity towards the environment, intent is 'essentially irrelevant' and ecocide should be a strict liability offence (Gray, 1996; Higgins, 2010; Killean & Short, 2023, p. 8; Westing, 1974, pp. 24–27, See also Mehta, 2020). In this vein, Tsilonis gives examples of what he terms 'infamous ecocides', including the Chernobyl Nuclear Disaster of 1986, the Exxon Valdez Oil Spill of 1989, and the Kakhovka Dam destruction of 2023 indicating that criminal intent to harm the environment is not required in his view (Tsilonis, 2024, p. 265). As a mid-point alternative, there is an intent standard based on the term 'wilful' (Gillett, 2022; ILC, 1991).

However, the wilful standard was opposed by some counties during international law commission debates on a general crime against the environment, as it would purportedly exclude 'not only cases of damage caused by negligence but also those caused by deliberate violation … if the express aim or specific intention was not to cause damage to the environment' (ICL, 1991: Article 26 commentary). Yet that is a misunderstanding of wilful action. Instead, wilful encompasses acts conducted with awareness of the risk of the harm irrespective of the express aim or specific intention (Gillett, 2022). Eschewing any criminal intent requirement would act to the detriment of the international criminal justice project, thereby undermining its facilitative power to further strategic co-optation of the ecocide movement.

5.2. Balancing social utility against environmental harm?

Another feature of some formulations is the weighing of environmental harm against other societal interests. Regarding the centring of ecocide on a social-utility style cost–benefit analysis, some see this is the cornerstone of ecocide, such as the IEP, which uses the pivotal term 'wanton', whereas others would either eschew purely anthropocentric interests completely (such as Cabanes approach detailed above) or retain it as a marginal test contained by the requirement to interpret it in line with more legalistic parameters (such as the Gillett definition and the Promise Institute).

The cost–benefit test bears the risk of overriding ecocentric considerations and symbolically deprioritising the environment, which would exacerbate the driving cause of much environmental degradation. As Heller notes

> [h]ow the IEP can justify calling such an anthropocentric understanding of environmental destruction 'ecocide' is difficult to understand. Either we criminalise the knowing destruction of the environment or we don't. Either the environment exists to serve humans or it doesn't. The least defensible solution is the middle path adopted by the IEP – that knowingly destroying the environment is criminal only if humans don't have a good enough reason to destroy it. (Heller, 2021; see also Karnavas, 2021)

Permitting an unrestrained version of the cost–benefit test is not compatible with the ecocide movement and consequently not conducive to strategic co-optation of ecocide at the ICC.

5.3. Enumerating the underlying crimes

An additional consideration is that of enumeration of crimes. As shown above, this is a feature which is necessary for adherence to the Court's axiomatic principles of legality and fair notice (Gillett, 2023; Mistura, 2018, p. 199 – 'A general definition of 'environmental crime' would likely breach such principle, as it poses a high risk of vagueness and potential over-breadth of coverage.'; Killean & Short, 2023). Without an enumerated list of offences approximating the level of specificity of war crimes, crimes against humanity, genocide and aggression, the Court would have to compromise on its core guarantees, thereby undermining the basis for strategic co-optation. While it could be seen as winning the battle on the ecocide definition front, the effect of such a vague and unenumerated definition would lose the war for the legitimacy of the ICC as a judicial institution anchored to due process. This immediately augurs in favour of strategic co-optation via a legalistic approach to defining ecocide, enumerating its underlying acts, in a roughly equivalent form to the existing provisions on war crimes, crimes against humanity, genocide and aggression.

An issue arises in relation to omission liability and whether ecocide can impose positive obligations on parties in addition to the negative obligation to avoid inflicting serious harm on the environment. Multiple commentators would like a special approach for ecocide in contrast to existing crimes, creating an 'environmental duty of care' (IEP, 2021, including 'an act or omission' as a culpable form of ecocide; Killean & Short, 2023). Maximising the ecocentric impact of the new crime, this would come at the expense of human rights protections for international criminal responsibility. On this basis, Tsilonis opposes it, arguing that omission is not contemplated within any of the modes of individual criminal

responsibility under Article 25 of the Rome Statute and that it can at most be included through an interpretation of Article 28 on superior responsibility (Tsilonis, 2024, p. 279). However, omission liability has been permitted at the ad hoc tribunals, such as in the case of Sljivančanin, without undermining the legality of the institutions. What would be necessary is sufficient enumeration of the underlying forms of ecocide to guide the actions of those undertaking projects which may impact the environment. As Sarlième notes '[i]t is therefore important to examine whether, from the wording of these three proposed definitions, an individual would know clearly which underlying acts and/or omissions would make him or her criminally liable, even after taking appropriate legal advice' (Sarlième, 2021, p. 10). In this light, omission liability is not incompatible with strategic co-optation but would require reasonable detail in the enumeration of the forms of ecocide to avoid violating the principle of legality.

5.4. Defining victims of ecocide

A consequential effect of the formulation of ecocide is the scope of who and what qualifies as victims of this crime. The exclusion of animal species, forests, or waterways from qualification as victims has been noted (Lostal, 2024; Killean & Short, 2023). As long as the range of victims are restricted to anthropocentric entities, as is currently the case under Rule 85, the Court's approach to ecocide will remain anthropocentric in effect even if the formulation of the crime is ecocentric in itself. This could be seen as undermining a core goal of the ecocide movement, which is to broaden the basis on which non-human entities can have their interests recognised and compensated through ICC proceedings (see Gray, 1996, p. 270). However, means of overcoming these limitations through constructs such as guardianship models could provide a vehicle for the inclusion of their views and thereby the prospects of strategic co-optation (Killean & Short, 2023; Preston, 2011, p. 14).

Although these axis are features of the various formulations of ecocide and do not cover all of the legal elements of ecocide, they provide a guide as to best means to accommodate the requirements of incorporating new crimes under the ICC's framework in line with axiomatic human rights and due process protections whilst still ensuring that the ecocentric rationale of the ecocide movement is adhered to. Other elements are also relevant, such as the legality test (whether as an unlawfulness element of the crime of ecocide, or as an exclusion for liability), as well as the nature of the crime as one of conduct or consequence, and can also be assessed according to this rubric. However, space does not permit this for present purposes and the specific issue being addressed herein will not necessarily turn on either of these additional elements. Instead, it is the above-referenced inflection points which will determine whether ecocide is ultimately destined to provide free-standing protection to the environment, irrespective of human harm, or whether it is essentially to consist of an additional crime against humanity with an ecological link (Heller, 2021).

6. Overarching conclusions

The preceding study shows that ecocentricism has been a driving deontological motivation for the ecocide movement since its earliest conception. However, approaches to

formulating ecocide are not uniform and with that divergence comes the risk of division and potentially assimilative co-optation. This could occur unconsciously, due to the ICC's need for self-preservation and homeostatic reflex when confronted with a new adjustment that differs from its anthropocentric orientation. In seeking to counter the exclusivity of anthropocentric ontologies perceived as serving Western capitalist purposes, approaches such as relational ontology have revived the idea of nature and humans being intertwined. However, this bonding risks denuding ecocide of its independent protective power. By removing the distinction between humans and the natural environment, these trends in modern thought have undermined moves to provide the environment with free-standing protections. Though it takes a different approach, the IEP's social utility model, also ultimately inserts human interests as a supervening value, thereby removing the non-conditioned environmental protection of ecocide. Yet that independent protective power is the core additional value which ecocide can offer, both as a symbolic and operational matter, by addressing serious irrespective of whether human harm is also demonstrated.

Determining whether ecocide will be formulated in an ecocentric or anthropocentric manner will essentially depend on way its elements are articulated. If a social utility approach is preferred and human interests are enshrined as a primary interest which can vitiate ecocide, then its ecocentric value will be undermined. For the type and range of victims of ecocide, the exclusion of the environment itself will also reduce the ecocentric impact of adding this crime to the Rome Statute. Yet the elements of the crime must also accord with the strictures of the Court's nature as an institution of law adhering to human rights protections. Because of this, the intent standard cannot be removed entirely and must entail a culpable mindset at least amounting to indirect intent. Similarly, the underlying crimes must be enumerated with sufficient detail to give an accused fair notice of their potential transgression and to guide the broader public in its understanding of the specific contours and ambit of ecocide. Treading a careful path through those legal parameters is critical to ensure that the ecocentric roots of ecocide can be upheld while also protecting the Court's broader obligations and identity as an institution of law and due process.

Protecting human interests is key to the ICC's mission. However, if the Court is called on to add a new strand to its normative framework to protect nature, that strand must be enabled to provide true additional protection and not merely a repackaging of the existing protections under the Rome Statute's anthropocentrically framed crimes. With a mutually beneficial approach emphasising the ecocentric underpinnings of the new crime of ecocide while adhering to the Court's fundamental due process protections of humans facing potential criminal sanction, strategic co-optation can be achieved. However, there is a distinct risk of the assimilative co-optation of the ecocentric strand of the ecocide movement, through the unintentional elevation of human interests and the extinguishing of environmental values. As set out above, various schools of thought on ecocide, such as the incrementalist, social utility and even relational ontology, inadvertently risk elevating human interests over those of the environment in such a way as to exacerbate the very cause of much environmental harm. Other formulations that relax fundamental fair trial rights and the principle of legality risk undermining the essential axiomatic foundations of international criminal law to such an extent as to delegitimise

the unique institution they seek to engage. That would devalue the very symbolic power of the ICC which has the epotential to galvanise additional protection for nature.

Nietzsche observed that '[w]e organic beings are primordially interested by nothing whatever in any thing (Ding) except its relation to ourselves with reference to pleasure and pain' (Nietzsche, 1878, p. 42). While his normative views of this exhortation are not evident, a similarly solipsistic approach is increasingly shaping the contours of ecocide and rendering them conditional on, and co-extensive with, human suffering. However, for many observers, ecocide's promise is derived from precisely the opposite conception – its attribution of independent juridical significance to environmental harm, irrespective of any associated harm to humans. The multiple formulations of ecocide which intertwine human suffering into the legal definition of ecocide risk undermining that independent value and rendering ecocide 'human, all too human'.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Notes on contributor

Matthew Gillett is a Senior Lecturer (Associate Professor) at the University of Essex and a United Nations Special Mandate Holder (United Nations Vice-Chair of the Working Group on Arbitrary Detention and its Rapporteur on Indigenous Rights in Detention). He prosecuted cases before the international courts in The Hague for over a decade. He has published extensively on international criminal law, human rights, and protection of the environment.

References

Anderson, E., & Pildes, R. (2000). Expressive theories of law. University of Pennsylvania Law Review, Vol. 148, No. 5.

Bacca, P. I. (2015). Indigenous Peoples and the Legacies of Colonialism in International Criminal Law: The Challenging Crime of Genocide. https://criticallegalthinking.com/2015/10/07/indigenous-peoples-legacies-of-colonialism-international-criminal-law/.

Bailey, C. (1932). *Phases in the religion of ancient Rome. 1st ed., vol. 10*. University of California Press.

Berman, A. (2021). Between participation and capture in international rule-making: the who framework of engagement with non-state actors. *European Journal of International Law*, *31*(1), 227–254.

Brady, H., & Re, D. (2018). Environmental and cultural heritage crimes: The possibilities under the Rome statute. In M. Böse (Ed.), *Justice without borders: Essays in honour of wolfgang schomburg* (pp. 103–136). Koninklijke Brill.

Branch, A., & Minkova, L. (2023). Ecocide, the anthropocene, and the international criminal court. *Ethics and International Affairs*, *37*(1), 1. http://doi.org/10.1017/S0892679423000059

Burke, A., & Celermajer, D. (2021). Human progress is no excuse to destroy nature. *The Conversation*. https://theconversation.com/human-progress-is-noexcuse-to-destroy-nature-a-push-to-make-ecocide-a-global-crime-must-recognise-this-fundamental-truth-164594.

Cabanes, V. (2013). Definition of ecocide. http://valeriecabanes.eu; ICC Amendements Ecocide ENG Sept-2016.

Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities (prepared by Mr. Nicodème Ruhashyankiko (Special Rapporteur)). (1978). Study of the question of the prevention and punishment of the crime of genocide, United Nations.

Coy, P., & Hedeen, T. (2005). A stage model of social movement Co-optation: Community mediation in the United States. *Sociological Quarterly*, *46*(3), 405–435.
Cusato, E., & Jones, E. (2023). The 'imbroglio' of ecocide: A political economic analysis. *Leiden Journal of International Law*, *37*(1), 1–20. http://doi.org/10.1017/S0922156523000638
Drumbl, M. (2000). International human rights, international humanitarian Law, and environmental security: Can the international criminal court bridge the gaps? *Journal of International & Comparative Law*, *6*, 305–341.
ECtHR: Verein KlimaSeniorinnen Schweiz and Others v. Switzerland. (2024). 53600/20, Grand Chamber, Judgment.
ENMOD. (1977). *Convention on the prohibition of military or any other hostile use of environmental modification techniques* (31 U.S.T 333, T.I.A.S. No. 9614). United Nations Office for Disarmament Affairs.
Falk, R. (1973). Environmental warfare and ecocide: Facts, appraisal and proposals. *Bulletin of Peace Proposals*, *4*(1), http://doi.org/10.1177/096701067300400105
Freeland, S. (2015). *Addressing the international destruction of the environment during warfare under the Rome statute of the international criminal court*. Intersentia.
Fried, J. (1972). War by ecocide. In M. Thee (Ed.), *(1973). bulletin of peace proposals. 1973* (Vol. 1, pp. 34–44). Universitetsforlaget, Olso, Bergen, Tromsö.
Gamson, W. A. (1975). *The strategy of social protest*. Dorsey Press.
Gauger, A., Rabatel-Fernel, M., Kulbicki, L., Short, D., & Higgins, P. (2013). *The ecocide project: Ecocide is the missing 5th crime against peace (human rights consortium, school of advanced study*. University of London. https://sas-space.sas.ac.uk/4830/1/Ecocide_research_report_19_July_13.pdf.
Gilbert, J., Macpherson, E., Jones. E., & Dehm, J. (2023). The rights of nature as a legal response to the global environmental crisis? A critical review of international law's 'greening' agenda'. In D. Dam-de Jong, & F. Amtenbrink (Eds.), *Netherlands yearbook of international Law 2021: A greener international Law—international legal responses to the global environmental crisis* (pp. 47–74). T.M.C. Asser Press.
Gillett, M. (2022). *Prosecuting environmental harm before the international criminal court*. Cambridge University Press.
Gillett, M. (2023). A Tale of Two Definitions: Fortifying Four Key Elements of the Proposed Crime of Ecocide, *Opinio Juris*. https://opiniojuris.org/2023/06/20/a-tale-of-two-definitions-fortifying-four-key-elements-of-the-proposed-crime-of-ecocide-part-i/.
Gillett, M. (2024). Ecocide, environmental harm and framework integration at the International Criminal Court. *The International Journal of Human Rights*.
Gillett, M., et al. (2025). Proving ecocide: The plight of pangolins as a case study for fusing ecological science with international Law. *International Criminal Law Review*, *25*(1), 1. http://doi.org/10.1163/15718123-bja10223
Gray, M. (1996). The international crime of ecocide. *California Western International Law Journal*, *26*(2), 215–272.
Grear. (2012). "Framing the project" of international human rights Law: Reflections on the dysfunctional "family" of the universal declaration'). In C. Gearty, & C. Douzinas (Eds.), *The Cambridge companion to human rights law* (pp. 17–1335.
Gupta, S. (2021). The proposed definition of "ecocide". *Jurist*.
Hamilton, R. (2024). Criminalizing ecocide, https://digitalcommons.wcl.american.edu/facsch_lawrev/2247.
Heimann, G., Kruck, A., Paikowsky, D., & Zangl, B. (2025). Cooptation in great power rivalries: A conceptual framework. *Contemporary Security Policy*, *46*(1), 8–36. http://doi.org/10.1080/13523260.2024.2430022
Heller, K. J. (2021). Sceptical thoughts on the proposed crime of 'ecocide' (That Isn't), *Opinio Juris*. http://opiniojuris.org/2021/06/23/skeptical-thoughts-onthe-proposed-crime-of-ecocide-that-isnt/.
Heri, C. (2025). Mattering in the anthropocene: the ECtHR's domesticating framing of climate change. *The International Journal of Human Rights*.

Higgins, P. (2010). Eradicating Ecocide: laws and governance to prevent the destruction of our planet, 2nd ed., 2015.
Holdo, M. (2019). Cooptation and non-cooptation: Elite strategies in response to social protest. *Social Movement Studies*, *18*(4), 4. http://doi.org/10.1080/14742837.2019.1577133
Hossain, K. (2024). An indigenous cosmovision for an earth-centric governance: Deconstructing the normative structure of international law?. *International Community Law Review*, *26*(4), 315–330. http://doi.org/10.1163/18719732-12341502
Hulme, K. (2022). Using international environmental law to enhance biodiversity and nature conservation during armed conflict. *Journal of International Criminal Justice*, *20*, 5.
ICC Assembly of States Parties: Report of the Working Group on Amendments, ICC-ASP/23/26, 1 December 2024, p. 4 and Annex II. (2024). xxx.
Independent Expert Panel. (2021). *Legal definition of ecocide, commentary and coretext*. Stop Ecocide Foundation. https://www.stopecocide.earth/expert-drafting-panel.
International Criminal Court. (2009). Prosecutor v. Jean-Pierre Bemba, ICC-01/05-01/08, 15 June 2009), Decision on the confirmation of the charges, International Criminal Court.
International Law Commission. (1991). Draft code of crimes against the peace and security of mankind, report of the International Law Commission, 43rd Session, Supplement No. 10, U.N. Doc. A/46/10 (1991), United Nations.
Jensen, E. (2005). The international law of environmental warfare: Active and passive damage during armed conflict, 38, *Vanderbilt Journal of Transnational Law* 145.
JEP. (2023). Sala De Reconocimiento De Verdad, De Responsabilidad Y De Determinación De Los Hechos Y Conductas, Auto de determinación de hechos y conductas dentro del Caso No. 05 '*Situación Territorial en la región del Norte del Cauca y del Sur del Valle del Cauca' frente al primer grupo de comparecientes de las CM Jacobo Arenas y Gabriel Galvis, Auto 1/2023*, 1 February 2023.
Karnavas, M. (2021). Ecocide: Environmental Crime of Crimes or Ill-Conceived Concept?, *Opinio Juris*. https://opiniojuris.org/2021/07/29/ecocide-environmental-crime-of-crimes-or-ill-conceived-concept/.
Killean, R. (2025). Ecocide's evolving relationship with war. *Environment and Security*.
Killean, R., & Newton, E. (2024). From Ecocide to Ecocentrism: Conceptualizing Environmental Victimhood at the International Criminal Court. *International Review of Victimology*.
Killean, R., & Short, D. 2023. A critical review of the law of ecocide (18 October 2023). http://doi.org/10.2139/ssrn.4605681.
Kotzé, L. J. (2019). Earth system law for the anthropocene. *Sustainability*, *11*(23), 6796. http://doi.org/10.3390/su11236796
Kruck, A., & Zangl, B. (2019). Trading privileges for support: The strategic Co-optation of emerging powers into international institutions. *International Theory*, *11*(3), 3. http://doi.org/10.1017/S1752971919000101
Kurki, V. A. J. (2024). What is animal dignity in Law? *Journal of Animal Law, Ethics and One Health (LEOH)*, 9–23.
Liévano, A. B. (2023). Colombia's transitional justice cannot agree on how to prosecute environmental crimes, *JusticeInfo*. https://www.justiceinfo.net/en/116565-colombia-transitional-justice-cannot-agree-on-how-to-prosecute-environmental-crimes.html.
Lima, V. (2020). The institutionalisation of social movements: Co-optation and democratic policy-making. *Political Studies Review*, https://doi.org/10.1177/1478929920913805
Lostal, M. (2024). One-dimensional law: A critique of the human right to a clean, healthy and sustainable environment. *The International Journal of Human Rights*, 1–26.
Malby, S. (2024). Beyond sword and shield: The UN human rights system and criminal law. *The International Journal of Human Rights*, *29*(5), 916–939. http://doi.org/10.1080/13642987.2024.2432953
Maller, C. (2021). Re-orienting nature-based solutions with more-than-human thinking. *Cities*, *113*, 1–8.
Mapuche Indigenous leader. (2021). Mapuche Weychafe Moira Millán speaks out against racism, *Terricide*. https://awasqa.org/mapuche-leader-moira-millan-speaks-out-against-racism-terricide/?lang=en.

McCaffrey, S. (2008). Criminalisation of environmental protection. In C. Bassiouni (Ed.), *International criminal Law, Vol. 1 (3rd ed.)* (pp. 1015–1048). Martinus Nijhoff Publishers.
Mégret, F. (2013). The case for a general international crime against the environment. In S. Jodoin, & C. Segger (Eds.), *Sustainable development, international criminal justice, and treaty implementation, ch. 4* (pp. 50–70). Cambridge University Press.
Mehta, T. (2020). Symposium exploring the crime of ecocide: accountability for environmental destruction–ecocide in national and international law (Part II) The Way Forward. *Opinio Juris*.
Minkova, L. (2024). Ecocide. Sustainable development and critical environmental Law insights. *Journal of International Criminal Justice*, *22*, 1.
Mistura, A. (2018). Is there space for environmental crimes under international criminal Law? The impact of the office of the prosecutor policy paper on case selection and prioritization on the current legal framework. *Columbia Journal of Environmental Law*, *43*(1), 49–65.
Naffine, N. (2003). Who are law's persons? From cheshire cats to responsible subjects. *The Modern Law Review*, *66*(3), http://doi.org/10.1111/1468-2230.6603002
Nash, R. (1989). *The rights of nature: A history of environmental ethics*. University of Wisconsin Press.
Neyret, L. (2014). Pour la reconnaissance du crime d'écocide. *Revue Juridique de L'Environnement*, *59*, 179–193.
Nietzsche, F. (1878). Human, all too human.
Palarczyk, D. (2023). Ecocide before the international criminal court: Simplicity is better than an elaborate embellishment. *Criminal Law Forum*, *34*(2), 147–207. http://doi.org/10.1007/s10609-023-09453-z
Peel, J., & Osofsky, H. (2018). A rights turn in climate change litigation? *Transnational Environmental Law*, *7*(1), 37. http://doi.org/10.1017/S2047102517000292
Pereira, R. (2015). *Environmental criminal liability and enforcement in European and international Law*. Koninklijke Brill.
Preston, B. (2011). The use of restorative justice for environmental crime. *Criminal Law Journal*, *35*, 3.
Prospieri, L., & Terrosi, J. (2017). Embracing the human factor. Is there New impetus for conceiving and prioritising intentional environmental harms as crimes against humanity. *Journal of International Criminal Justice*, *15*, 509–525.
Rawles, K. (2003). Conservation and animal welfare. *Global Bioethics*, *16*(1), 99–109. http://doi.org/10.1080/11287462.2003.10800833
Raz, J. (2011). From normativity to responsibility.
Rendulic and Alfred Jödl. (1948). See US Military tribunal V for Germany: hostage case, *United States v. List et al., Trial Judgment*. Case, 7, 8. LRTWC 34, 19 February 1948.
Robinson, D. (2021). Your guide to ecocide part 1, *Opinio Juris*, 16th July 2021, http://opiniojuris.org/2021/07/16/your-guide-to-ecocide-part-1/.
Robinson, D. (2022). Ecocide – puzzles and possibilities. *Journal of International Criminal Justice*, *20*, 2.
Robinson, D. (2024). Chapter 14 'international environmental crimes and ecocide'. In S. L. Smith, & I. Sahramäki (Eds.), *Research handbook on environmental crimes and criminal enforcement* (pp. 281–303). Edward Elgar.
Sanchez De Jaegher, C. (2024). Ecocide as terricide: indigenous contributions. https://www.uu.nl/en/opinie/ecocide-as-terricide-indigenous-contributions.
Sander, B. (2019). The expressive turn of international criminal justice: A field in search of meaning. *Leiden Journal of International Law*, *32*(4), 4. http://doi.org/10.1017/S0922156519000335
Sarlième, M. (2021). Ecocide: Past, present, and future challenges. In W. Leal Filho, A. M. Azul, L. Brandli, A. Lange Salvia, & T. Wall (Eds.), *Life on land. Encyclopedia of the UN sustainable development goals* (pp. 233–243). Springer.
Schmitt, M. (1997). Green war: An assessment of the environmental law of international armed conflict. 22 *Yale Journal of International Law* 1.
Selznick, P. (1948). Foundations of the theory of organization. *American Sociological Review*, *13*(1), 25–35. http://doi.org/10.2307/2086752

Selznick, P. (1949). *TVA and the grass roots: A study of politics and organization*. University of California Press.
Sharp, P. (1999). Prospects for environmental liability in the international criminal court. *18 Virginia Environmental Law Journal*, 217.
Snidal, D. (2024). How informal intergovernmental organizations facilitate cooptation and promote peaceful change in times of power rivalry. *Contemporary Security Policy*, *46*(1), 150–176. http://doi.org/10.1080/13523260.2024.2424706
Snively and Williams. (2016). Chapter 3 – "coming to know": A framework for indigenous science education. In G. Snively, & W. L. Williams (Eds.), *Knowing home: Braiding indigenous science with western science book 1* (pp. 35–53). University of Victoria.
Stone, C. (1972). Should trees have standing? - toward legal rights for natural objects. *Southern California Law Review*, *45*, 450–501.
Sunstein, C. (2021). On the expressive function of Law. *University of Pennsylvania Law Review*, *144*, 2021–2053.
Tănăsescu, M. (2024). Rights of nature. *Legal personality, and indigenous philosophies*.
Tauber, S. (2023). The global animal advocacy movement in international relations: Toward an animal-inclusive IR. *International Relations*, *37*(3), 475–496. http://doi.org/10.1177/00471178231191296
The Hague Court of Appeal, Milieudefensie and Others v. Royal Dutch Shell PLC and Others, case number 200.302.332/01. (2024). Judgment of 12 November 2024.
Tomuschat, C. (1996). *Document on crimes against the environment*, 48th session (A/CN.4/L.505/Add.1, ILC(XLVIII)/DC/CRD.3). U.N. International Law Commission.
Tsilonis, V. (2024). The jurisdiction of the international criminal court (2nd ed.).
U.N. Climate Change. (2022). What is the triple planetary crisis?, https://unfccc.int/news/what-is-the-triple-planetary-crisis#:~:text=The%20triple%20planetary%20crisis%20refers,viable%20future%20on%20this%20planet.
UNGA Resolution A/RES/76/300. (2022). The human right to a clean, healthy and sustainable environment.
United Nations Framework Convention on Climate Change. (2022). UN Climate Change Annual Report 2022.
United Nations Working Group on Arbitrary Detention. (2023). Annual report for 2023, A/HRC/54/51, United Nations.
Voigt, C. (2021). Ecocide as an international crime. EJIL: Talk!, 3 July 2021. https://www.ejiltalk.org/ecocide-as-an-international-crime-personal-reflections-onoptions-and-choices/.
von Stuckrad, Kocku. (2023). The revival of animism in the 21st century. *Oxford research encyclopedia of religion*.
Westing, A. H. (1974). Arms control and the environment. *Bulletin of the Atomic Scientists*, *30*(1), 24–27.