

**Ecocide in Armed Conflicts with a Focus on the
Situation in Israel and Palestine:
Challenges for the International Criminal Court
(Original Research)**

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Extended Abstract

1. Introduction

Ecocide generally refers to widespread and severe destruction of, or long-term damage to, nature which is officially recognized as an international crime only in the context of war.

In the Gaza conflict, heavy metal bombardments have led to the release of toxic substances that, due to their long-term persistence in the environment, have entered the food chain, contaminating the local food resources. Although some countries have criminalized ecocide in their national laws, many have not taken serious action to prosecute this type of crime.

On 21 March 2023, the European Parliament Committee on Legal Affairs unanimously voted that the most serious environmental crime, widely known as ecocide, should be punishable under EU Law. However, Israel and the Palestinian Authority have not yet taken steps to formalize ecocide-related crimes. In 2015, the ICC accepted Palestine as a Party to the Statute, but Israel, which had originally signed the Statute, withdrew its signature in 2002, creating legal challenges to address environmental crimes in Gaza.

The Statute of the International Criminal Court does not provide a precise definition of "State", but rather provides that a "Member State" may refer a case to the Court, and a "non-Member State" may accept the Court's jurisdiction by filing declarations.

Israel's military operations in Gaza, particularly the massive bombardments,

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have clearly caused long-term and widespread environmental damage that can be classified as ecocide, violating the Geneva Conventions and fundamental human rights.

The key issues in the study pertain to the ICC's ability to address environmental crimes during the Gaza War, especially considering Israel's non-membership status to the Rome Statute.

2. Research Gap and Objective

The term "ecocide" refers to unlawful or intentional acts that are carried out with the potential to cause severe, widespread, or long-term harm to the environment. One of the important goals of ecocide criminalization is to protect human groups from the harmful effects imposed on them through the destruction of the environment. For example, the destruction of vital natural resources can lead to humanitarian crises, and even genocide.

This study examines the legal issues surrounding ecocide during the Gaza conflict and analyzes the challenges facing the ICC Prosecutor. Among the most important of these challenges are issues of jurisdiction and enforcement in the prosecution of defendants who enjoy the protection of their governments and are, therefore, excluded from international justice's reach.

The study also analyzes the devastating environmental events in the Gaza War to assess whether these events can be classified as deforestation and international crimes. In addition, it examines the legal challenges surrounding the prosecution of these crimes, especially in areas where the parties involved are not Parties to the Statute of the ICC.

Finally, the study examines the legal basis for issuing the 2024 arrest warrants for the Israeli Prime Minister and Defense Minister, as well as Hamas leaders.

3. Methodology

The research is descriptive and analytical, based on collecting information from library sources, legal documents, and reviewing authoritative secondary sources. In this approach, key concepts such as ecocide and regulations related to environmental crime are first explored. Then, the collected data is used to analyze events related to the Gaza War and its environmental consequences. The study utilizes international reports, academic articles, legal conventions, and analyses by international jurists.

4. Key Findings

The Israeli-Palestinian conflict has significant impacts on the region's natural resources, especially water resources. Such resources are essential not only for economic benefits but also for ensuring independent and secure livelihood of the people, and full realization of basic human rights such as access to safe drinking water. Fresh, safe-drinking water plays a vital role in

human survival and in creating the conditions for lasting peace. In this regard, the question is, can environmental restoration be considered as part of a peaceful solution between Israel and Palestine at the end of this conflict? And, to what extent can sustainable coexistence between humans and nature help strengthen the foundations of peace and stability in the region?

Since June 2021, when the Independent Panel of Experts published its proposed definition of the crime of ecocide, there has been increased global attention to the need to criminalize the act internationally. According to the Panel's definition, ecocide involves actions that are carried out illegally and deliberately, with the knowledge that there is the potential for severe, widespread, and long-term damage to the environment.

The addition of ecocide as a new crime in the Statute could be a turning point in international law. For the amendment to be officially added to the Rome Statute, one of the member states must first propose the addition of the crime. Then there is the need for the support of a simple majority of member states for initial adoption, while the final adoption requires the support of two-thirds of Member States. Also, due to the discretionary nature of jurisdiction, only in cases where States specifically recognize the crime, will the prosecution of ecocide be possible.

5. Contribution to the Field

Building international capacity to issue warrants, similar to those already issued, could pave the way for preventing or positively intervening in similar events. These capacities can help strengthen international peace and security, given the ICC's power to enforce justice and uphold human rights. Although there are significant challenges associated with the application of these types of jurisdictions, the gradual expansion of these legal mechanisms and the strengthening of international cooperation in this field can be a way of ensuring justice and preventing similar crimes from occurring in the future.

6. Conclusion

Despite increasing global attention to environmental destruction in conflict-affected areas, the International Criminal Court (ICC) faces significant enforcement challenges in its administration of justice. It lacks a police force to enforce its judgments and the option of trial in absentia, so the enforcement of its judgments relies on the cooperation of Member States. This dependency creates a critical weakness in the Court's enforcement structure that can be a major obstacle to prosecuting environmental crimes.

The real question is whether the international community has the will to prosecute ecocide under Article 8 of the Rome Statute or as a new crime in its own right. Despite the numerous legal and executive obstacles, justice for crimes against humanity and nature is a fundamental necessity. In this regard, the issuance of arrest warrants for Benjamin Netanyahu and his defense

minister, Yoav Gallant, may be seen as a step to overcome these obstacles. However, doubts remain as to whether these efforts will actually succeed, posing a significant challenge to international justice.

Keywords

Ecocide, Armed Conflicts, Gaza, Palestine, Israel, International Criminal Court, Challenges

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