

Blue Crimes and International Criminal Law

Edited by

Regina M. Paulose

International Criminal Law Attorney

Series in Law



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List of Abbreviations

AU	African Union
EEZ	Exclusive Economic Zone
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
ICTY	International Criminal Tribunal for the Former Yugoslavia
ICW	International Whaling Commission
ILC	International Law Commission
ILO	International Labour Organization
ITLOS	International Tribunal on the Law of the Sea
IUU	Illegal, unreported, and unregulated (fishing)
SIDS	Small Island Developing States
UN	United Nations
UNCLOS	UN Convention on the Law of the Sea

Introduction

Through the Looking Glass

Regina M. Paulose

International Criminal Law Attorney

Blue Crimes and International Criminal Law is a companion volume to *Green Crimes and International Criminal Law*, which was published in 2021 by Vernon Press. While this volume incorporates some themes from *Green Crimes* the main purpose of this volume is to provide a link between international criminal law and water (which includes water for consumption, our oceans, and other bodies of water).

This volume explores three overarching questions. The first question explored is what constitutes blue crimes? I define blue crimes as an umbrella category of crimes which are linked in some manner to water. Within the broad category of blue crimes, there are two subcategories: ocean crimes, or crimes of the sea, and water crimes. These two subcategories are covered in this book. The contributors in this volume have been given leeway to define and interpret blue crimes as they see appropriate. The other question explored is how can the international community respond to blue crimes? The damage being inflicted on life around and within our oceans, the way water is used as a weapon against civilians, or diverted from civilians and wildlife under the guise of green energy, and the potential collapse of our marine ecosystem due to overfishing and in some cases – slaughter for sport - should encourage a prompt re-examination of the place of blue crimes within international criminal law. We already know the important role that water plays on earth. Our rivers, lakes, and oceans are catalysts for producing and providing for all life. These bodies of water, particularly our oceans, are now at the epicenter of fighting human-induced climate change. Despite the laws, regulations, and treaties that appear to regulate water and water bodies, there is little to no enforcement of these laws. Which brings us to the third question explored: how do we appropriately enforce these legal regimes to protect water and the life around it?

The following chapters discuss important issues within the arena of blue crimes, and the editor remains hopeful that entities such as the International Seabed Authority, parties to the UN Convention on the Law of the Sea, and the ICC will consider how to address blue crimes in an effective manner. Further, it

is hoped that the topics covered in this book will also inspire focused discussion during the UN Ocean Decade (2021 – 2030).

In Chapter 1, Dr. Zoi Aliozi continues the conversation she started in *Green Crimes*, examining a definition of blue crimes and its intersection with the rights of nature, climate justice, and ecocide. Dr. Aliozi's chapter will orient the reader to some of the philosophical underpinnings of the issues presented throughout this book. In Chapter 2, Lu Shegay furthers the discussion on the rights of nature by examining the horrific slaughter of whales for commercial purposes and why these frameworks need to be re-evaluated to protect marine mammals.

In Chapter 3, Dr. Pierpaolo Petrelli takes the reader through the UN Convention on the Law of the Sea, highlighting the multiple shortcomings of UNCLOS in its current form, particularly given challenges such as migrant deaths and damage to environmentally sensitive areas such as the Arctic. Connected to UNCLOS reform is the discussion in Chapter 4, where co-authors Lancaster, Erinosh, Hamukuaya, and Sanni discuss fisheries crimes with a specific focus on the Caribbean and African regions. Their chapter introduces the concept of blue justice and how blue justice can be a more inclusive means of allowing communities to participate in ocean governance. Dr. Mark Chadwick also raises questions about the need for UNCLOS reform and brings us back to the original crime of the sea – piracy - where he explores why the crime of piracy is in need of a make-over in Chapter 5.

The next two chapters in the book move the conversation away from traditional concepts of blue crimes and narrow the focus on blue crimes in specific contexts. In Chapter 6, Ronald Rogo and Christine Okidi examine the situation of the El Molo people who continue to face challenges to water access as a result of hydropower projects. This chapter connects back to the discussion started in the *Green Crimes* volume regarding the growth of hydropower in Asia and its link to violations of human rights and international criminal law. In the same vein, in Chapter 7, Dr. Shabnam Moinipour presents a very grim picture of challenges involving water security and corruption in the water governance sector in the Islamic Republic of Iran. She suggests incorporating a human rights framework to water governance challenges in order to ensure water access and water security for people in Iran.

Finally, the last two chapters examine avenues for accountability for blue crimes within the international arena. In Chapter 8, Henna Shah explores corporate accountability and blue crimes by surveying the effectiveness of international corporate accountability instruments and in Chapter 9, Vy Nguyen questions what role, if any, the ICC could have in prosecuting blue crimes.

On a final and important note, I wanted to thank Dr. Narissa Ramsundar for her valuable peer review feedback to the contributors. In addition, special thanks again go to Sagina Vadakal, who created the cover art for this book and to Tim Franklin, who assisted with technical edits. In addition, I am grateful to Sherri A. White for her feedback. Last but not least, thank you to all the contributors to this volume who worked diligently to make this book a wonderful companion volume to *Green Crimes*.

Chapter 1

Exploring Ecocide as a Blue Crime Through the Lens of Climate Justice

Dr. Zoi Aliozi

Human Rights & Climate Justice Expert

Abstract: This chapter is an examination of the concept of *blue crimes* (meaning *crimes at sea* within the theory of *blue criminology*), through the lens of *climate justice*. The examination is undertaken through an interdisciplinary exploration that blends law and philosophy while attempting to highlight the urgency of integrating climate justice into international criminal law, human rights, and global justice discourse. Focusing on ecocide as a blue crime, it examines existing legal frameworks and considers the incorporation of ecocide into international criminal law. The chapter delves into the philosophical dimensions of climate justice, highlighting its significance as a social, ethical, and legal concern in addressing crimes at sea with special legal firmness. Acknowledging the strong link between international criminal law, human rights, and climate justice is vital for ensuring global justice and in tackling climate change.

Keywords: Blue Crimes, Blue Criminology, Climate Justice, Ecocide, The Rights of Nature, International Law, Criminal Law, Philosophy, Human Rights, Interdisciplinarity, legal philosophy, environmental ethics, eco-philosophy.

Prolegomena

The first question that demands exploration is: **What is climate justice?**

An ideal definition of climate justice would be: Climate justice is the fair treatment of all people, living beings, ecosystems, and the biosphere, extending to the cosmos. It emphasizes equity, accountability, human rights, and the rights of future generations, animals, and nature.

Thus, climate justice could also be articulated as: Climate justice, in essence, is the fair treatment of all people (from an anthropocentric perspective) and/or all life and the biosphere (from an ecocentric perspective) in addressing climate

change. It focuses on equity, accountability, human rights, support for vulnerable communities, the rights of future generations, animal rights, and the rights of nature.

There can be numerous and diverse definitions of climate justice, depending on the discipline through which we choose to analyze the concept. However, the common denominator across all interpretations of climate justice is its root cause, its starting point: climate change itself. In every definition, climate change is traced back to human activities. Humanity is the common thread, both the cause and the reason behind climate change, which serves as the foundation for any legal inquiry into accountability. At the same time, humans are not only responsible and accountable for climate injustices but also the subjects and beneficiaries of climate justice.

While seemingly straightforward, this question opens the door to a cascade of further inquiries, much like the mythical Hydra—each answer giving rise to multiple new questions. This is because climate justice as a concept can be translated in many different ways, depending on which discipline we view the phenomenon, concept, idea, or movement. I like to think of this flexibility and inclusivity of the definition of climate justice in terms of an initiation into Socratic questioning, where finding the true answer leads us to deeper, more complex considerations.

For example, a couple of years ago, in 2022, the United Nations finally and officially recognized the *human right to a healthy environment*,¹ a significant step in framing climate justice within the human rights discourse, but pragmatically too little too late; since it took 77 years for the UN to recognize the universal applicability of the human right to a clean environment. International law, in essence, has been weak concerning climate justice enforceability, which is the defining factor for a number of inadequacies and misconceptions surrounding our understanding of climate justice. The most striking to me, and a common misconception that I believe requires clarification, is the notion of separating climate justice from human rights. In my view, climate justice is inherently linked to human rights. In recent years, there has been a noticeable shift, with human rights increasingly being framed in the context of environmental issues.² In my view, the two are inseparable, interlinked, interdependent and complementary. To turn away from climate justice is, in essence, to turn away from human rights itself, and vice versa. This disconnect underscores the critical need for deeper understanding and the

¹ U.N. Human Rights Council, Res. 48/13, U.N. Doc. A/HRC/RES/48/13 (Oct. 8, 2021).

² John H. Knox, *Climate Change and Human Rights Law*, 50 VA. J. INT'L L. 163 (2009).

integration of climate justice across policy, law, and education—particularly during this time of climate emergency.³

A notable case that highlights the intersection of climate justice and human rights is *Urgenda Foundation v. The State of the Netherlands* (2015). In this case, a Dutch court ruled that the government had a legal duty to reduce greenhouse gas emissions in order to protect its citizens from the impacts of climate change. This decision marked a watershed moment, as it framed climate change as not only an environmental issue but also a human rights issue. Similarly, the *Juliana v. United States* case, although ultimately dismissed on procedural grounds, raised the critical question of whether the U.S. government had violated young people's constitutional rights by failing to take adequate action on climate change. This case, as an example, demonstrates the gradual but meaningful progress in aligning legal frameworks with the principles of climate justice and ecocentrism. By integrating the concepts of green criminology, ecocide, and the rights of nature, there is potential to move toward a legal system that more effectively addresses the interconnected crises of environmental degradation, human rights violations, and social inequality.

From the perspective of critical legal studies, this emphasis is not merely theoretical—it challenges entrenched power structures that marginalize climate issues and treat them as secondary to human rights. Similarly, it questions the devaluation of animal rights, positioning them as inferior to human rights within the unspoken legal and moral hierarchy in international law. Critical legal scholars argue that the law is often complicit in maintaining structures of oppression, and in this case, the reluctance to fully embrace climate justice reflects the legal system's failure to address the intertwined crises of environmental degradation and social injustice.⁴ This chapter argues that ecocide should be recognized as an international crime to establish legal consequences for environmental destruction, particularly in oceans, which have been overlooked in climate and legal discussions despite their vital role in sustaining life. Oceans are severely impacted by pollution, overfishing, and habitat destruction, affecting marine life and vulnerable communities. By promoting ecocentric ideas, stronger protection of marine animals, and the rights of nature, this approach offers a powerful basis for reform through climate justice considerations in law and policy.

Similarly, *feminist legal scholarship* offers valuable insights into why climate justice must be central to human rights. Feminist scholars have long critiqued

³ U.N. Framework Convention on Climate Change, Report of the Conference of the Parties, U.N. Doc. FCCC/CP/2015/10/Add.1 (2016).

⁴ Robert M. Cover, *Violence and the Word*, 95 YALE L.J. 1601, 1606 (1986).

the law for its tendency to marginalize vulnerable communities, particularly women and indigenous populations, who are disproportionately affected by climate change.⁵ Climate justice, from a feminist perspective, involves recognizing and addressing these intersecting inequalities. It demands that we prioritize the principle of vulnerability and the needs of those most impacted by climate-related harms, rather than maintaining legal frameworks that reinforce existing power dynamics.⁶

This chapter seeks to contribute to the evolving discourse on climate justice by offering a new perspective: the legal construction of *ecocide* as a form of *blue crime*. While ecocide has been traditionally understood as the widespread destruction of ecosystems, here, I aim to examine it through the lens of crimes committed against marine environments—often overlooked in mainstream legal and policy discussions. By exploring the legal and moral implications of treating ecocide as a blue crime, I hope to provide fresh insights into how climate justice can be advanced in both human rights law, environmental law,⁷ and criminal law, through integration of these concepts into international criminal justice legal frameworks.

To properly address *what climate justice is*, we must first ask: *Who is asking the question?* From which perspective are we approaching this concept? And why are we seeking a definitive answer? In philosophical research circles, we know that most of the time, it is not the answer that is wrong, but the question. So, are we asking the right question? The interpretation of climate justice varies depending on the context:

Philosophically, it can be understood as a theory of justice concerned with fairness in addressing climate change.⁸

Morally, it reflects the idea that destroying nature violates both ecological balance and human rights, positioning environmental destruction as a moral and legal wrong on par with crimes against humanity.⁹

⁵ Susan Schneider, *Feminist Perspectives on Environmental Law*, 31 HARV. ENVTL. L. REV. 61, 77 (2007).

⁶ V. G. M. R. K. Singh, *Intersectionality and Climate Justice*, 45 U. PA. J. INT'L L. 451, 465 (2023).

⁷ Polly Higgins, *Eradicating Ecocide: Laws and Governance to Stop the Destruction of Our Planet*, 4 CLIMATE L. 237, 245 (2013).

⁸ John Rawls, *A Theory of Justice* (Harvard University Press 1971).

⁹ Richard Falk, *Human Rights and the Environment*, 10 AM. U. INT'L L. REV. 1079, 1095 (1995).

Legally, climate justice refers to the application of laws, treaties, and legal principles to address the impacts of climate change, often through frameworks like international environmental law, human rights law, and emerging criminal law focused on environmental harm.¹⁰

Politically and socially, it represents a movement driven by activists advocating for environmental protection and opposing the fossil fuel industry.¹¹

Academically, climate justice flourishes as a human-rights-based research topic, and it can be interdisciplinary, or applied across multiple disciplines, from law and economics to environmental science and ethics, or even architecture, biology, and so on and so forth, where its meaning transforms and adjusts according to the field of study.¹²

In this scholarly work, climate justice is intertwined with these various perspectives, reflecting its flexible, evolving nature. However, at its core, climate justice is structured by a legal framework deeply rooted in philosophical principles. This chapter will examine climate justice as an issue fundamentally linked to the legal responses to anthropogenic climate change, particularly through the lens of human rights and criminal law. This intersection of legal, ethical, and environmental factors shapes the exploration of climate justice in this chapter, guided by the following definition:

Climate justice is essentially the blueprint for a fair and sustainable future of life on this planet. Climate justice can be understood as a lens for looking at climate change as a social, ethical and legal issue, rather than solely an environmental one.¹³

The following paragraphs aim to explore the concept of blue crimes through the lens of climate justice. The primary focus is on analyzing whether ecocide, as the worst and most severe blue crime, can meaningfully contribute to international criminal justice. Ecocide represents one of the most significant legal developments of our time—an effort to establish a law designed to protect our planet. This is a critical issue, as ecocide is poised to be recognized as one of the most serious crimes of our era. Ecocide, as a blue crime, would involve severe environmental harm to oceans and marine ecosystems, prosecutable

¹⁰ *Report of the Conference of the Parties*, *supra* note 3.

¹¹ Bill McKibben, *The End of Nature* (Random House 1989).

¹² J. B. Ruhl, *Climate Change and the Law: A Primer for Legal Scholars*, 44 ENVTL. L. 95 (2014).

¹³ Zoi Aliozi, *Policy Brief: Climate Justice and Human Rights in a World in Climate Emergency*, GLOBAL CAMPUS OF HUMAN RIGHTS (2021).

under international law. Examples include large-scale oil spills or illegal dumping, which threaten marine life and human communities.¹⁴

To fully appreciate the brilliance of this legal construction, it's essential to recognize that when ecocide becomes legally applicable universally, any form of human-driven mass harm to nature will become illegal and prosecutable under international criminal law.¹⁵ This shift represents a powerful extension of legal protection, where environmental destruction—whether through deforestation, ocean pollution, or industrial practices—would no longer go unpunished.¹⁶

Ecocide in the oceans, driven by human activities such as pollution, overfishing, and habitat destruction, poses a severe threat to marine ecosystems and biodiversity. Recognizing ecocide as an international crime could pave the way for holding individuals and corporations accountable, regardless of where these actions occur, effectively overcoming the challenges of extraterritoriality. By applying universal jurisdiction through international criminal law, this legal framework could ensure that the destruction of ocean ecosystems is prosecuted globally, ensuring that no nation can shield perpetrators from responsibility. This approach would strengthen global environmental justice, offering a more robust mechanism for protecting our oceans. This legal revolution not only offers hope for safeguarding the planet but also redefines our moral and ethical responsibilities toward the environment, aligning human rights with the rights of nature.¹⁷ It signals a transformative step toward ensuring that environmental protection becomes a core tenet of international justice, prioritizing the well-being of both humanity and the natural world. What is important to highlight is that, philosophically, it invites a reconsideration of human's role within the cosmos. It calls for a departure from the outdated anthropocentrism in law and a progression toward an ecocentric perspective on what law and justice ought to be. But through an ecocentric standpoint, where humans are not at the top of the value hierarchy, but rather part of an ecosystem interdependent for our well-being, humanity is not the entitled ruler of nature. Instead, we are part of it, with our best interest lying in protecting nature, as we depend on it. This perspective rejects the unregulated exploitation of natural resources simply because we live in a free market ruled by capitalist systems.

Moving the reflecting path from philosophy to law, it is arguable that from a legal perspective, including ecocide within the mandate of the ICC would

¹⁴ Higgins, 237.

¹⁵ International Law Commission, *Draft Principles on the Protection of the Environment in Relation to Armed Conflicts*, U.N. Doc. A/74/10 (2019).

¹⁶ Janusz Symonides, *Human Rights and the Environment: The Need for Global Governance*, 18 INT'L J. ENV'T & SUSTAINABLE DEV. 77, 85 (2019).

¹⁷ Cormac Cullinan, *Wild Law: A Manifesto for Earth Justice* (2002).

elevate it to the level of the other gravest crimes, such as genocide, war crimes, and crimes against humanity.¹⁸ The ICC's purpose is to prosecute the worst crimes against humanity and ensure accountability on a global scale.¹⁹ Recognizing ecocide as a crime would address the devastating impact environmental destruction has on human rights, as ecosystems underpin human survival, health, and well-being.²⁰ By prosecuting ecocide, the ICC could help protect vulnerable communities from the catastrophic effects of environmental degradation, which often disproportionately affect marginalized populations, and further reinforce the principle that environmental protection is inseparable from the protection of human rights.²¹

In light of the urgent climate crisis, integrating ecocide into international criminal law could be a crucial step in securing justice for both the planet and humanity.²²

This chapter, as explained above, employs an interdisciplinary methodology, drawing on the dual disciplines of law and philosophy as its analytical foundation. Within this framework, climate justice is approached as a multifaceted concept, whose scope and interpretation vary depending on the disciplinary lens applied. From a legal perspective, climate justice is closely tied to criminal law and human rights, emphasizing the need for accountability and protection in the face of environmental harm. Conversely, when viewed through a philosophical lens, climate justice engages with political theory and global justice frameworks, offering a basis for the emergence of transformative ideas, such as the rights of nature and the recognition of ecocide. These evolving concepts align with the pressing ethical and environmental challenges humanity faces today, underscoring the need for new paradigms in both theory and practice.

Our planet is suffering a climate emergency, a crisis officially recognized by the United Nations in 2019.²³ In this urgent global context, the necessity for

¹⁸ David R. Boyd, *The Rights of Nature: A Legal Revolution That Could Save the Planet* (2017).

¹⁹ International Criminal Court, Rome Statute of the International Criminal Court, art. 1, July 17, 1998, 2187 U.N.T.S. 90.

²⁰ Dinah Shelton, *Human Rights and the Environment: The Right to a Healthy Environment*, 27 PACE ENVTL. L. REV. 161, 175 (2010).

²¹ Shyami P. S. Jayasuriya, *Environmental Degradation and Human Rights: A Case for Ecocide*, 9 J. INT'L Humanitarian Legal Studies 233 (2018).

²² Polly Higgins, *Eradicating Ecocide: Laws and Governance to Stop the Destruction of Our Planet*, 4 Climate L. 237 (2013).

²³ U.N. Climate Action Summit, *Climate Emergency: An Urgent Call for Action* (2019), available at: <https://www.un.org/en/climatechange/urgency-action>.

immediate and transformative climate action has become undeniable, as evidenced by rising sea levels, extreme weather events, and the rapid loss of biodiversity.²⁴ These challenges have prompted a significant global shift towards sustainability and greener practices across all sectors—whether it's in education through climate curricula, in industry through the adoption of renewable energy, or in policy through frameworks like the Paris Agreement.²⁵

Most importantly for our discussion, this shift is also reflected in law. Legal systems around the world are increasingly acknowledging the need to protect not only human rights but also the rights of animals, and nature. This is evident in groundbreaking developments such as New Zealand granting legal personhood to the Whanganui River²⁶ and Ecuador enshrining the rights of nature in its constitution.²⁷ These legal precedents align with growing ecocentric debates on green criminology,²⁸ which expand the definition of crime to include criminal harm against the environment itself, a concept often referred to as ecocide.²⁹

I. Codifying Ecocide as a Blue Crime

Climate justice has emerged as a crucial force within the movement advocating for the legal codification and recognition of ecocide, emphasizing the disproportionate impact of environmental harm on vulnerable communities. It plays a pivotal role in advancing the principles of green criminology by holding corporations and states accountable for environmental damage. Moreover, it integrates the language of human and environmental rights into mainstream discourse, as seen in lawsuits like the *Urgenda* case³⁰ in the Netherlands, where the government was held legally responsible for failing to meet its climate commitments. These developments highlight the growing recognition that environmental protection is not only a scientific or policy issue but a legal and moral imperative.

²⁴ Intergovernmental Panel on Climate Change, *Global Warming of 1.5°C* (2018), available at: <https://www.ipcc.ch/sr15/>.

²⁵ Paris Agreement, Dec. 12, 2015, 55 U.N.T.S. 359.

²⁶ Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, No. 7 (N.Z.).

²⁷ Ecuador Const. arts. 71-74 (2008).

²⁸ REGINA M. PAULOSE, GREEN CRIMES AND INTERNATIONAL CRIMINAL LAW 123 (Vernon Press 2021).

²⁹ Zoi Aliozi, *Green Criminology: A Rights-Based Approach*, in R. Paulose ed., GREEN CRIMES AND INTERNATIONAL CRIMINAL LAW 1 (Vernon Press 2021).

³⁰ *Urgenda Foundation v. The Netherlands*, [2015] HAZA C/09/00456689 (June 24, 2015); *aff'd*, (Oct. 9, 2018) (District Court of The Hague and The Hague Court of Appeal) (affirmed by the Supreme Court, Dec. 20, 2019).

The recognition of ecocide and blue crimes in international law has seen notable growth in recent years, signaling an increasing commitment to environmental justice. For instance, Belgium introduced ecocide as a criminal offense in its legal framework in 2024, aiming to address severe environmental harm such as large-scale oil spills and other acts of significant ecological destruction.³¹ Similarly, France's Climate & Resilience Act (2021) criminalizes ecocide under national law, with penalties for those causing serious and lasting environmental damage.³² The European Union has also made strides, with the European Council adopting a directive that criminalizes environmental offenses comparable to ecocide, setting a precedent for other member states to follow.³³ These examples reflect a broader trend toward incorporating blue crimes—such as ocean pollution, overfishing, and destruction of marine habitats—into legal frameworks, highlighting the growing importance of protecting marine ecosystems within international law.

A. Ecocide as an International Crime

If the Rome Statute, the treaty that established the ICC, were to be written today, it is highly likely that ecocide—mass environmental destruction—would have been included among the list of the gravest international crimes such as genocide, crimes against humanity, and war crimes. The momentum to classify ecocide as a crime under international law has been steadily growing, with countries such as France, Belgium, and Vanuatu advocating for its inclusion. This would empower the ICC to hold individuals, corporations, and governments accountable for severe environmental damage on a global scale.

Blue crimes, a term rooted in the emerging field of blue criminology, refer to crimes that occur at sea or have significant impacts on marine environments. These crimes can include illegal fishing, pollution, human trafficking, piracy, and, as this chapter emphasizes, ecocide. Blue criminology, as a discipline, seeks to address the unique challenges posed by crimes at sea, which often occur in areas beyond national jurisdiction and involve multiple state and non-state actors. The concept of blue crimes recognizes that the ocean is a critical

³¹ Belgium Federal Parliament, "Act Introducing the (New) Book II of the Belgian Criminal Code," February 2024.

³² Law No. 2021-1104 of August 22, 2021, on Combating Climate Change and Strengthening Resilience to its Effects, *Journal Officiel de La République Française* (Aug. 24, 2021), available at <https://www.vie-publique.fr/loi/278460-loi-22-aout-2021-climat-et-resilience-convention-citoyenne-climat>.

³³ European Council, "Directive on Environmental Crimes," European Union, March 2023.

global common that requires robust legal protections to safeguard its ecosystems and the human populations that depend on them.

The intersection of these concepts—climate justice, ecocide, and blue crimes—forms the foundation of this chapter’s exploration of how international criminal law can and should evolve to address the pressing issue of environmental destruction at sea. By defining these terms and understanding their interconnections, we can better appreciate the importance of integrating climate justice into the legal frameworks that govern our global environment. This integration is not only a matter of legal necessity but also of moral and ethical responsibility to current and future generations.

B. From Anthropocentrism to Ecocentrism: A Shift in Legal Philosophy

In recent decades, legal and philosophical debates have increasingly shifted from an anthropocentric to an ecocentric understanding of law. Anthropocentrism, the traditional view that places human beings at the center of legal and moral consideration, has long dominated international and domestic legal systems.³⁴ As mentioned briefly above, this perspective often regards nature as a resource for human use, leading to its exploitation without adequate safeguards for the environment itself.³⁵ However, the rise of climate justice and green criminology has begun to challenge this anthropocentric focus, pushing toward an ecocentric framework where the environment, ecosystems, and non-human life forms are recognized as having intrinsic value and legal rights.³⁶

An example of this shift is seen in the emergence of “Rights of Nature” legal frameworks. Ecuador became the first country to enshrine the rights of nature in its constitution in 2008, recognizing ecosystems as legal entities with rights to exist, persist, and regenerate. Similarly, in 2017, the Whanganui River in New Zealand was granted legal personhood, affording it the same rights as a human being under New Zealand law.³⁷ These developments represent a major move away from anthropocentrism and toward ecocentrism, where nature is not merely protected for the sake of human benefit but acknowledged as a subject of law in its own right.³⁸

³⁴ Patrick Glenn, *Legal Traditions of the World* 26 (3d ed. 2010).

³⁵ Richard A. Posner, *The Law and Economics of Climate Change*, 5 YALE J. OF REGULATION 159 (1988).

³⁶ Rob White, *Green Criminology: An Introduction to the Concept*, 14 CRIMINOLOGY & CRIM. JUST. 267 (2014).

³⁷ Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, No. 7 (N.Z.).

³⁸ David R. Boyd, *The Rights of Nature: A Legal Revolution That Could Save the Planet* 41 (2017).

In the context of climate justice, this shift has important implications. Climate justice advocates for addressing the unequal distribution of environmental harm, often disproportionately affecting vulnerable populations and ecosystems.³⁹ Through an ecocentric lens, climate justice expands beyond human-centered concerns to include the rights of non-human life and the environment itself. This approach can lead to more holistic legal frameworks that address the root causes of environmental degradation and its broader impacts.

C. The Role of Criminology in Addressing Ecocide

Criminology⁴⁰ plays a key role in this transformation, providing a critical analysis of environmental harm as a form of crime, whether or not it is recognized by existing legal systems. It expands the concept of crime to include harms against ecosystems and species, challenging traditional legal definitions that focus solely on human victims. The number one landmark case that illustrates this shift is the ongoing effort to classify “ecocide” as an international crime. Ecocide refers to mass environmental destruction that threatens to destroy ecosystems and harm human populations alike. The international push to include ecocide as a crime under the Rome Statute of the ICC is a significant step toward holding corporations and governments accountable for large-scale environmental harm.

D. The Emergence of Blue Crimes: Environmental Harm at Sea

The concept of “blue crimes” has recently gained prominence in the realm of international criminal law, reflecting an urgent need to address unlawful activities committed at sea that have far-reaching consequences for climate justice and human rights. Traditionally, the corpus of international criminal law has been primarily concerned with *hostis humani generis*⁴¹ crimes, such as genocide, war crimes, and crimes against humanity. However, as environmental degradation intensifies and oceanic ecosystems face unprecedented threats, it has become imperative to broaden the scope of international criminal law to include offenses that directly impact marine environments and the global sea commons they constitute.

Blue crimes are understood as unlawful acts that result in significant harm to marine environments, thereby breaching international legal norms. These

³⁹ J. B. Ruhl, *Climate Change and the New Ecological Paradigm*, 46 ENVTL. L. 133 (2016).

⁴⁰ Paulose, GREEN CRIMES, *supra* note 12, at 45.

⁴¹ *Hostis humani generis* is a Latin term that is used as a principle of international law and means “enemy of all mankind.” It refers to individuals committing universally condemned crimes, like piracy or terrorism, subject to prosecution by any nation. See: *United States v. Smith*, 18 U.S. (5 Wheat.) 153, 162 (1820).

crimes encompass a spectrum of activities, including but not limited to IUU fishing, hunting of cetacean animals (dolphins and whales), marine pollution, human trafficking across international waters, piracy, and the nascent but increasingly salient concept of ecocide. The prosecution of such crimes presents unique challenges, largely due to their occurrence in areas beyond national jurisdiction—*terra nullius*—and the involvement of multiple actors whose actions have transboundary effects.⁴² Given that the oceans comprise over 70% of the Earth's surface and play a vital role in regulating the global climate, sustaining biodiversity, and providing livelihoods, the degradation of these marine ecosystems through blue crimes has profound implications.⁴³ These implications extend beyond environmental harm to include violations of fundamental human rights, the destabilization of economic systems, and the exacerbation of global inequalities.

E. Ecocide and Blue Crimes: Legal Challenges and Opportunities

In recent scholarship, there has been a growing acknowledgment of the necessity for a more *comprehensive* and *holistic* approach to addressing blue crimes within the international legal framework. This necessitates not only the fortification of existing legal instruments but also the consideration of new legal paradigms that would encompass emerging crimes, such as ecocide—a term that denotes the extensive destruction of ecosystems, particularly marine environments. The inclusion of ecocide as a crime under international law would mark a significant development in holding individuals and entities accountable for environmental harm that threatens the ecological balance of the planet.

Integrating blue crimes into the *jus cogens* of international criminal law is essential for advancing climate justice. This integration underscores the *principle of non-discrimination*, especially in protecting vulnerable populations who bear the brunt of environmental degradation and ensuring accountability for those who perpetrate such harm. As the global community confronts escalating environmental crises, the expansion of international criminal law to address blue crimes represents a crucial step toward ensuring the long-term health of our planet and safeguarding the rights of future generations. The importance of such legal evolution has been emphasized in recent academic discourse.

⁴² David Freestone, *The Role of International Law in the Conservation of Marine Biodiversity*, 16 INT'L J. OF MARINE AND COASTAL LAW 439, 442 (2001).

⁴³ Intergovernmental Panel on Climate Change, *Climate Change and Oceans: 2021 Report*, 2 (2021).

For legal scholars, exploring climate justice through the lens of ecocide as a blue crime is both challenging and worthwhile.

The emerging discourse on blue criminology introduced the concept of “blue crimes,” focusing on crimes committed at sea and their far-reaching impacts on global ecosystems, human rights, and international justice. Among these blue crimes, ecocide, the extensive destruction of marine environments, stands out as a critical area of concern. As the world faces escalating environmental crises, the concept of ecocide has gained prominence, particularly in the context of climate justice. Ecocide, by its nature, intersects with various disciplines, including law, philosophy, environmental science, and human rights. Its classification as a blue crime within international criminal law is a recent development that underscores the urgency of addressing environmental harm on a global scale. The sea, as a vast and largely unregulated space, presents unique challenges for legal frameworks that seek to protect both human and non-human entities. Traditional international law has often fallen short in addressing the complexities of crimes that transcend national boundaries, particularly when it comes to environmental destruction at sea. This chapter aims to fill that gap.

The concept of ecocide, while gaining prominence, is not yet codified in binding international law, which complicates its application to “blue crimes” such as illegal fishing, marine pollution, and habitat destruction. Current frameworks, including the Rome Statute of the ICC and regional legal systems, provide limited avenues to address harm to marine ecosystems. However, domestic and regional cases from the United States and the EU, including decisions by the European Court of Human Rights (ECtHR), offer insights into the gaps and possibilities for recognizing ecocide.

In the U.S., cases like *United States v. Viking Resources*⁴⁴ demonstrate the enforcement of environmental laws concerning marine ecosystems. Viking Resources was penalized under the Clean Water Act for oil spills that caused significant damage to aquatic ecosystems. While effective within national jurisdictions, these statutes lack the capacity to classify such acts as international crimes akin to ecocide.

In the EU, *European Commission v. Spain*⁴⁵ exemplifies how regional law addresses marine degradation. The European Court of Justice (ECJ) found Spain in violation of EU environmental directives, specifically Directive

⁴⁴ *United States v. Viking Resources* 607 F. Supp. 2d 808 (E.D. Mich. 2009).

⁴⁵ *European Commission v. Spain* (Case C-223/12, 2014).

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List of Contributors

Zoi Aliozi

Dr. Zoi Aliozi is an international academic, lawyer-scholar-activist, a climate justice and human rights educator, and an award-winning philosopher. Prior to her academic pursuits, she practiced criminal law, bringing a wealth of practical experience to her scholarly endeavors. With a rich academic background, Dr. Aliozi has accumulated more than a decade of experience in climate justice and human rights education across international universities. Her expertise is lauded for insightful connections between law, philosophy, and activism. Beyond academia, Dr. Aliozi is actively engaged in influential climate action projects, emphasizing her steadfast commitment to promoting climate justice. Her notable contributions include offering her expertise in the creation of the 'Maastricht Principles for the Rights of Future Generations', and serving as a Climate Justice expert research evaluator for Horizon Europe under the European Commission; notably, she currently serves as an EU Climate Pact Ambassador. Dr. Aliozi's multifaceted career exemplifies her dedication to advancing climate justice, human rights, law, and philosophy, on both scholarly and practical fronts.

Mark Chadwick

Dr Mark Chadwick is a Principal Lecturer in Law at Nottingham Trent University, where he teaches and researches International Criminal Law. He holds a PhD from the University of Nottingham for a thesis focusing on the historical development of universal jurisdiction in relation to piracy and, more recently, in relation to serious international crimes such as genocide, crimes against humanity and war crimes. Mark's PhD was subsequently developed into a monograph, *Piracy and the Origins of Universal Jurisdiction: On Stranger Tides?* (BRILL, 2019), which provides an invaluable historical and legal examination of our relationship with high-seas piracy, drawing on influences from literature, culture and philosophy.

Mark has also published in various journals and blogs, particularly on the topic of universal jurisdiction, and has presented widely at many academic conferences. He has worked as an intern at the International Criminal Court, the International Bar Association and the Human Rights Law Centre (Nottingham) and has served several times as a judge for the IBA International Criminal Court Moot Court, held annually in The Hague. In 2019, he appeared on the Netflix documentary series "*Explained*", for an episode focusing on the phenomenon of piracy.

Bolanle Erinosh

Bolanle Erinosh is a Senior Lecturer at the Law School, University of Derby. She was the Co-country Director for the One Ocean Hub at the University of Cape Coast in Ghana. She has a Ph. D in International Environmental Law from the University of Sheffield in the United Kingdom. She teaches and researches in the areas of environment, oceans law and governance.

Hashali Hamukuaya

Hashali Hamukuaya is a Research Fellow at the University of South Africa. He has contributed to diverse, high-profile projects, including combating fisheries crime with FishForce, enhancing ocean biodiversity governance with the One Ocean Hub, and shaping South Africa's maritime economy at the South African International Maritime Institute (SAIMI). At SAIMI, Hashali led research proposal development, managed the Think Tank, and played an important role in Operation Phakisa, a national initiative to unlock South Africa's ocean economy. Currently serving as Research Development and Monitoring Manager at the Sustainable Seas Trust, Hashali leads efforts to promote sustainable practices in the blue economy across Africa.

Alana Malinde S. N. Lancaster

Alana Malinde S. N. Lancaster is a Guyanese-Barbadian environmental, energy & human rights lawyer, academic and natural resources specialist. She is currently a Lecturer in International Environmental & Energy Law and Head of Environmental Law, Ocean Governance & Climate Justice Unit (ELOG&CJ Unit) of the Faculty of Law at the University of the West Indies. Alana is also a Co-Investigator with the UKRI GCRF-funded One Ocean Hub, and serves as the Regional Deputy Director of the Global Network for Human Rights and the Environment for the Caribbean Region. She has been a Member of the International Law Association Caribbean Branch for 9 years and currently serves as the Association's Honorary Treasurer.

Academically, Alana specializes in international, regional (CARICOM & OECS) and comparative marine environmental law. This includes climate law, international human rights law, maritime security at sea, the law of the blue economy and international energy law. Alana's latest research projects include a co-edited Research Handbook on Climate Justice, to be published by Edward Elgar in 2025, and an upcoming book chapter by Vernon Press on ocean-based solutions as tools for achieving climate justice for vulnerable States and peoples.

Over 2022 and 2023, she contributed to the international consultations on the Zero Draft Of General Comment 26 on children's rights and the environment, with a special focus on climate change; and the Report of the Special Rapporteur on Climate Change and the Environment focused on loss and damage, and the ongoing advisory opinions on climate change in front of the International Tribunal for the Law of the Sea (ITLOS), the International Court of Justice (ICJ), the Inter-American Court of Human Rights (IACtHR) and the African Commission of Human and Peoples' Rights (ACHPR). She has also produced research and policy pieces on the expansion of human rights and the marine environment; oceans and planetary health, with an emphasis on [de]colonization and gender in environmental issues affecting women, girls, children, Indigenous and Afro-descendant, displaced, migrant and LGBTIQ+ peoples.

Regionally, Alana has supported The University of the West Indies with the drafting and implementation of the institution's Climate Action Plan & Climate Justice Strategy and provides support to the Barbados' Coordinating Committee and National Working Group for the GEF Islands Child Project, a five-year project which aims to strengthen the mechanisms for the environmentally sound management of chemicals, plastics and wastes in the Caribbean. This includes support in the negotiations on the global treaty to end plastics pollution, and in developing Barbados' National Ocean Policy.

Shabnam Moinipour

Dr. Shabnam Moinipour is a scholar and advocate with a focus on human rights and social justice. She holds a Ph.D. in human rights. Her work centers on critical human rights issues, with particular attention to challenges faced by marginalized populations.

Dr. Moinipour has published significant works that explore institutionalized discrimination and the barriers to achieving equity, particularly in the context of Iran. She is the author of several publications, including a book entitled *Human Rights, Iranian Migrants, and State Media: From Media Portrayal to Civil Reality*. Her scholarly contributions delve into the structural and systemic factors that perpetuate human rights violations and inequality, offering nuanced analyses that inform both policy and practice in human rights advocacy. Dr. Moinipour is also an experienced educator, having taught courses on human rights and social research methods at leading institutions such as the School of Advanced Study, University of London.

In addition to her academic work, Dr. Moinipour actively supports human rights initiatives through her role as Program Director at the Centre for Supporters of Human Rights. Dr. Moinipour emphasizes the importance of bridging

academia and civil society, fostering a collaborative approach to human rights education and advocacy. She highlights the need to apply academic knowledge in practical ways to address real-world challenges and drive meaningful change.

Vy. T. Nguyen

Major (MAJ) Vy T. Nguyen holds a JD/MA from the American University Washington College of Law (WCL) and School of International Service and Honours BA from the University of Toronto. She is admitted to the Virginia State Bar.

MAJ Nguyen is the current Vice-Chair of publications for the ABA ILS International Criminal Law Committee. She is also an Alumni Council member for the WCL War Crimes Research Office and serves on active duty as a Government Appellate Attorney.

In 2020, MAJ Nguyen deployed to Afghanistan as the Command Judge Advocate for the Train, Advise, Assist Command—South and Kandahar Airfield in support of the NATO Resolute Support and USFOR-A Operation Freedom's Sentinel missions. Her other notable military assignments included Chief of National Security Law for the 10th Mountain Division (LI) and Fort Drum, Trial Defense Counsel in Vilseck, Germany, and Military Justice Advisor for the 10th Combat Aviation Brigade and 10th Mountain Division Sustainment Brigade. In 2022, she was selected as the U.S. Army recipient of the Judge Advocates Association-ABA Outstanding Young Military Lawyer Award.

Prior to military service, MAJ Nguyen served as a Department of Justice Honors Attorney Advisor at the Krome (Detained) Immigration Court. As a student, she worked for the Chairperson of the UN Committee Against Torture, Trial Chamber III at the International Criminal Tribunal for the Former Yugoslavia, and the Center for the Prevention of Genocide at the U.S. Holocaust Memorial Museum. In 2015, she was selected as a finalist for the Presidential Management Fellows (PMF) Program.

Christine Okidi

Christine Okidi is a legal professional with expertise in criminal justice, human rights, and public interest litigation. She has a strong focus on research, advocacy, and policy development, driving impactful legal and social change. Christine holds an LL. B degree from the University of Nairobi and a Postgraduate Diploma from the Kenya School of Law.

Regina M. Paulose

Regina M. Paulose is an attorney focusing on international criminal law, based in the United States. She serves on the Executive Committee of the American Bar Association International Law Section's International Criminal Law Committee. She is the editor and a contributor to *People's Tribunals, Human Rights and the Law* (Routledge) and *Green Crimes and International Criminal Law* (Vernon Press). She is the Executive Director of The Common Good Foundation, Inc.

Pierpaolo Petrelli

Dr. Pierpaolo Petrelli, an Associate Professor at O.P. Jindal Global University, exemplifies a distinguished career in international law and criminal justice. With a rich academic background from prestigious institutions, including a Doctorate of Juridical Science in International Criminal Law from Case Western Reserve University, Petrelli has honed his expertise in areas such as international humanitarian law, human rights law, transnational terrorism, and refugee law.

His career encompasses significant roles in academia and legal practice. As an educator, he has developed and taught courses in Public International Law, International Criminal Law, and International Courts and Tribunals, fostering comprehensive knowledge and critical thinking skills among his students. His commitment to education extends beyond the classroom, as he serves as an Associate Dean, facilitating international internships and actively participating in university and community programs.

Petrelli's legal prowess is further accentuated in his consultancy and research roles. His involvement in legal counsel positions demonstrates a deep-seated ability in intricate legal analysis and effective client advocacy. His research endeavors, particularly in documenting and analyzing war crimes and crimes against humanity, reflect his unwavering dedication to applying legal acumen to global challenges.

In addition to his professional roles, Petrelli has contributed to the legal field through scholarly publications, highlighting his research on the crime of aggression and other significant international law topics. His work reflects a deep understanding of the intricacies of international criminal law and a dedication to advancing knowledge in this field.

Pierpaolo Petrelli's career trajectory showcases a harmonious blend of academic rigor, practical legal experience, and a profound commitment to justice and human rights. His contributions to international law, both in theory

and practice, make him a significant voice in contemporary legal discussions and an inspiring figure for future legal scholars and practitioners.

Ronald Rogo

Ronald Rogo has a Master's degree in ICL from the University of Torino, Italy. He has taught ICL at the University of Nairobi, Kenya. He has co-written a number of articles, including Ronald Gordon Rogo, *'People's Tribunals and Truth Commissions'*, in Regina Menachery Paulose (ed) *People's Tribunals, Human Rights and the Law: Searching for Justice* (2020), Routledge, 40-59, Regina Menachery Paulose and Ronald Gordon Rogo, *Addressing Colonial Crimes through Reparations: The Mau Mau, Herero and Nama* (2018), *State Crime Journal* Vol. 7, No. 2, *State Crime and Colonialism* (Autumn 2018), 369-388, Lina Laurinavičiute, Regina Paulose and Ronald Rogo, *The Forgotten: The Armenian Genocide 100 Years*, in Morten Bergsmo, Cheah Wui Ling And Yi Ping (eds) *Historical Origins of International Criminal Law: Volume 1* (Torkel Opsahl Academic EPublisher, Brussels, 2014), 379-406.

Tajudeen Sanni

Dr. Tajudeen Sanni received his LLB (Ahmadu Bello University), BL (Nigerian Law School). LLM (University of Ilorin), LLM (Liverpool John Moore University), and LLD (Nelson Mandela University). Tajudeen was a One Ocean Hub-funded Research Fellow, Chair in Law of the Sea and Development in Africa, at the Institute for Coastal and Marine Research, Nelson Mandela University, South Africa. He is currently an Associate Professor and Head at the Center for Transformative Environmental and Marine Law, Faculty of Shariah and Law, Villa College, Male, Maldives. At the same institution, he is a module leader for the University of West of England LLB and LLM programs.

Henna J. Shah

Henna J. Shah holds a Juris Doctor from Wake Forest University School of Law and a Master of Laws in International Human Rights from Northwestern University Pritzker School of Law. She also received a Bachelor of Science and Arts in Biology, a Certificate in Business Foundations, and a Minor in Government from The University of Texas at Austin. Her legal experience includes working for the United Nations, the United States Government, non-governmental organizations, and legal clinics all over the world. She has held leadership positions with the American Bar Association, American Society of International Law, and Federal Bar Association, and is a member of Wake Forest University School of Law's Rose Council. Her legal practice and scholarship

focus on public international law, specifically international human rights law, international criminal law, international humanitarian law, international transportation law, aviation law, and outer space law.

Lu Shegay

Lu Shegay is the co-founder of the Institute of Animal Law of Asia and professor of law, she has earned her LL.B degree at KIMEP University School of Law (Kazakhstan) and her LL.M degree at Lewis & Clark Law School (Portland, Oregon). Twice Ambassador of the Center for Animal Law Studies, Lewis & Clark Law School, under the initiative Global Ambassador Program, Lu worked on projects on aquatic animals and animal abuse in Kazakhstan. She also serves as a permanent judge in the Jessup International Law Moot Court Competition. Lu contributed to the draft of the Animal Welfare Law of Kazakhstan, has published a chapter on animals in agriculture in *Animal Law in Kazakhstan, Russia, and Worldwide*, and her upcoming publication is the chapter on animal law in Kazakhstan in *Global Animal Law* (Oxford University Press).

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