

Research Article

INTERNATIONAL AND NATIONAL LEGAL FRAMEWORKS FOR RESPONDING TO CLIMATE-DRIVEN ENVIRONMENTAL CRIMES: A FOCUS ON VIETNAM

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ABSTRACT

Background: Environmental crimes related to climate change encompass unlawful acts that harm the natural environment and worsen climate issues. However, Vietnam's legal framework faces significant limitations in addressing these offences, with many harmful acts not classified as crimes and penalties often lacking proportionality and deterrent effects. Therefore, examining Vietnamese criminal law is essential for improving the legal response to these environmental crimes.

Methods: The author employs various social science research methods to enhance understanding of environmental crimes. By integrating qualitative legal research, doctrinal analysis, comparative studies, and case studies, the author clarifies both international and national legal frameworks. The doctrinal approach illuminates these frameworks, while the comparative method evaluates Vietnam's laws in relation to international standards. Additionally, case studies highlight legal gaps that impede the prosecution of serious environmental harm. These combined methods provide a comprehensive analysis of the issue.

Results and Conclusions: This article analyses international legal instruments alongside Vietnamese criminal law pertaining to climate-driven environmental crimes. It addresses key challenges, emerging trends, and current policy responses. Ultimately, it proposes legal and institutional reforms aimed at enhancing the legislative framework and improving the effectiveness of law enforcement.

1 INTRODUCTION

Alongside the recovery and development of the socio-economy, environmental pollution is increasing due to urbanisation, the widespread use of chemicals and pesticides, and large-scale deforestation. These factors have led to severe ecological imbalances. Deforestation, in particular, has hindered the ability to retain upstream water, resulting in floods, soil erosion and degradation. Industrial development has generated large amounts of toxic waste, while the ozone layer depletion has contributed to global warming, among other effects.

These phenomena present environmental protection as a significant challenge for most countries and the international community, including Vietnam. Of particular concern is that, alongside efforts to address environmental degradation, the deteriorating quality of the living environment continues to severely impact public health and constrain socio-economic development. Simultaneously, states are increasingly confronted with the rise of environmental crimes, including those associated with climate change.

According to a report by INTERPOL, environmental crime is growing at a rate of 5–7% per year—two to three times faster than the global economic growth rate—making it the fourth fastest growing area of organised crime worldwide.¹ The economic value of transnational environmental crimes is estimated to range from USD 91 to 258 billion annually, encompassing activities such as illegal logging, wildlife trafficking, and the trade in hazardous waste.² Notably, the amount of money lost due to environmental crime is more than 10,000 times greater than the amount allocated by international agencies to combat it—only USD 20–30 million.³

Under the UNODC's report, multiple underlying factors contribute to the rise of environmental crimes, particularly those related to climate change. The main causes include poor governance, widespread corruption, inadequate funding, lack of prosecution, limited international cooperation, and ineffective regulatory frameworks. Institutional in nature, these factors highlight the structural deficiencies of both national and international governance systems that enable and perpetuate environmental crime.⁴ In responding to environmental crime in general, at the international level, states have continuously made efforts to reach global and regional agreements on this issue, such as the United Nations Convention against Transnational Organized Crime (UNTOC), the Kyoto Declaration, the

1 Christian Nellemann and others (eds), *The Rise of Environmental Crime: A Growing Threat To Natural Resources Peace, Development And Security: A UNEP–INTERPOL Rapid Response Assessment* (UN 2016) 4, 8, doi.org/10.18356/cdadb0eb-en.

2 ibid 4, 77; Rob White (ed), *Transnational Environmental Crime* (Routledge 2013).

3 'UNEP–INTERPOL Report: Value of Environmental Crime up 26%' (*United Nations Environment Programme* (UNEP), 4 June 2016) <<https://www.unep.org/news-and-stories/press-release/unep-interpol-report-value-environmental-crime-26>> accessed 10 June 2025.

4 Benjamin Kurylo, 'What Is Environmental Crime?' (*Earth.Org*, 25 March 2024) <<https://earth.org/explainer-what-is-environmental-crime/>> accessed 10 June 2025.

United Nations Convention on the Law of the Sea (UNCLOS) of 1982, the Convention on Biological Diversity (CBD), and the 2015 Paris Agreement on Climate Change.

As a developing country heavily affected by climate change and environmental pollution, Vietnam and its government have consistently prioritised environmental protection and prevention, as well as the strict enforcement of environmental laws, as a key strategic task to ensure the country's stability and sustainable development. Environmental crimes related to climate change are illegal acts that directly or indirectly cause harm to the natural environment, especially aggravating issues related to climate change. Such an area is increasingly focused not only on the negative impacts on the ecosystem but also on the endangered sustainable development of humanity. According to a report by the Environmental Crime Prevention Police Department, in 2024, the national force inspected, detected, and handled 26,640 cases involving 28,223 individuals who were in violation of laws related to environmental protection, natural resources, and food safety. Among these, 704 cases with 1,113 suspects were prosecuted or recommended for prosecution. In addition, 24,694 cases involving 25,977 individuals were subject to administrative penalties or proposed for administrative sanctions. These figures indicate that violations and crimes related to environmental protection, resource management, and food safety are becoming increasingly complex, with the number of cases continuing to rise.⁵

Vietnamese criminal law recognises acts considered environmental crimes related to climate change in the current Penal Code. These include the crime of causing environmental pollution (Article 235), the crime of bringing waste into Vietnam's territory (Article 239), the crime of destroying forests (Article 243), and the crime of violating regulations on the management and protection of endangered, precious and rare animals (Article 244), among others.⁶

Although certain progress has been made in both legislation and implementation, the Vietnamese legal system's handling of environmental crimes related to climate change remains limited. A highly debated argument is that environmental acts affecting the environment have not been identified as crimes, and the penalties applied to these crimes are not proportionate to achieve a higher deterrent effect. Therefore, examining the legislative framework and the provisions of current Vietnamese criminal law—alongside efforts to identify its limitations and challenges—is highly critical. This research provides a legal and empirical foundation for proposing future improvements to the law on environmental crimes related to climate change in Vietnam.

Through in-depth research, it is evident that the issue of environmental crimes, particularly related to climate change, is not a new research topic, as several authors have published

5 'Proactively Prevent and Resolutely Combat Crimes and Violations of Environmental Laws' *Public Security News* (Hanoi, 30 December 2024) <<https://cand.com.vn/xa-hoi/chu-dong-phong-ngua-kien-quet-dau-tranh-voi-toi-pham-va-vi-pham-phap-luat-ve-moi-truong-i754943/>> accessed 10 June 2025.

6 Law of Vietnam No 100/2015/QH13 of 27 November 2015 'Penal Code' (amended 2017) <<https://vietanlaw.com/12-2017-qh14-364731/>> accessed 19 June 2025.

relevant studies. However, given the complexities and evolving nature of these crimes, it is essential to build on previous findings and explore new trends in Vietnam. This article will cover several key areas: first, it will clarify theoretical issues regarding environmental crimes linked to climate change; second, it will analyse and comment on the treatment of such crimes under both international and Vietnamese law, including an assessment of Vietnam's compliance with its international commitments; third, it will identify key challenges and evaluate trends in environmental crimes in Vietnam; finally, it will offer recommendations for improving regulations on environmental crimes in Vietnamese criminal law and enhancing legal enforcement effectiveness.

2 METHODOLOGY

To achieve the research objectives of this paper, the author employs various social science research methods, including qualitative legal research, combining doctrinal legal analysis, comparative legal research, and case study methodology. Specifically, the doctrinal method is employed to clarify both the international and national legal frameworks related to environmental crimes. Subsequently, the comparative method serves as a lens through which to assess the consistency and compatibility of Vietnam's legal framework with international law regarding climate-related environmental crimes. The author acknowledges that Vietnam's legal system currently addresses environmental crimes related to climate change in a limited manner. Therefore, this paper incorporates practical illustrations—such as cases involving illegal emissions, deforestation, and unlawful exploitation of natural resources—to demonstrate how these offences have contributed to worsening climate impacts in Vietnam. The inclusion of specific cases anchors the analysis in legal practice, avoiding purely theoretical or abstract considerations, and allows for more concrete and actionable conclusions.

3 CONCEPT OF ENVIRONMENTAL CRIMES RELATED TO CLIMATE CHANGE

3.1. Definition of Environmental Crimes

Climate change, initially recognised as a primary cause of global warming and rising sea levels, is one of the major challenges facing humanity in the 21st century. *Climate change, in common sense, is identified as the phenomenon of shifts in terms of temperatures and weather patterns over a long period of time due to the impact of natural conditions and human activities, which is manifested by global warming, rising sea levels and increased extreme hydrometeorological phenomena.*⁷

7 Law of Vietnam No 90/2015/QH13 of 23 November 2015 'On Hydrometeorology', art 3, para 13 <<https://thuvienphapluat.vn/van-ban/EN/Tai-nguyen-Moi-truong/Law-No-90-2015-QH13-Hydrometeorology/302898/tieng-anh.aspx>> accessed 19 June 2025.

Climate change brings multiple serious consequences affecting humans, animals, and the environment in various ways. Rising sea levels threaten low-lying areas and islands, leading to coastal flooding. Increasing global temperatures contribute to extreme heat, droughts and wildfires at a higher frequency.⁸ Extreme weather events such as storms, floods, droughts, tsunamis, and earthquakes are occurring with greater magnitude and frequency.⁹ Biodiversity involving various species of animals and plants is also at risk of extinction.¹⁰ In addition to public human impacts, climate change also poses serious risks to national and global economies, resulting in extensive critical damage and loss from natural disasters.¹¹

There are numerous reasons leading to climate change. Among them are human-caused bases such as greenhouse gas emissions, deforestation and further wrongful acts such as dumping waste into the environment, illegal hunting of animals, and so on.¹² As a result, to protect the environment and mitigate the harmful effects of climate change, many countries have regulated human behaviours that contribute to it. These offences are increasingly classified under the category of environmental crime.¹³

The concept of environmental crimes related to climate change has not been studied sufficiently, in contrast to the broader concept of environmental crime, which has been widely discussed over the decades. Environmental crime is a form of non-traditional crime that has only been recognised recently.¹⁴ It was not until the 1960s—when the negative environmental impacts in the world after the industrial revolutions became more evident, along with lawsuits of victims of Agent Orange from herbicides after the war in Vietnam—¹⁵ that the attention of the international community began to recognise the long-term and widespread environmental effects of persistent environmental pollutants. These developments brought environmental issues to the forefront for governments.

8 Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2023: Synthesis Report* (Hoesung Lee and José Romero eds, IPCC 2023) <<https://www.ipcc.ch/report/ar6/syr>> accessed 19 June 2025.

9 United Nations Office for Disaster Risk Reduction (UNDRR), *Global Assessment Report on Disaster Risk Reduction 2022* (UN 2022) <<https://www.undrr.org/gar>> accessed 19 June 2025.

10 Secretariat of the Convention on Biological Diversity (SCBD), *Global Biodiversity Outlook 5* (SCBD 2020) <<https://www.cbd.int/gbo5>> accessed 19 June 2025.

11 Jessie Guo, Daniel Kubli and Patrick Saner, *The Economics of Climate Change: No Action Not an Option* (Paul Ronke ed, Swiss Re Institute 2021).

12 United Nations Environment Programme (UNEP), *Emissions Gap Report 2023: Broken Record – Temperatures hit new highs, yet world fails to cut emissions (again)* (UNEP 2023) doi:10.59117/20.500.11822/43922.

13 Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the Protection of the Environment Through Criminal Law and Replacing Directives 2008/99/EC and 2009/123/EC [2024] OJ L 2024/1203.

14 Yingyi Situ and David Emmons, *Environmental Crime: The Criminal Justice System's Role in Protecting the Environment* (SAGE Publications 2000).

15 L Wayne Dwernychuk, 'Dioxin Hot Spots in Vietnam' (2005) 60(7) *Chemosphere* 998 DOI:10.1016/j.chemosphere.2005.01.052.

Since then, the research on the concept of environmental crime has received widespread attention from academics, legislators and communities.¹⁶ Through various approaches, the concept of environmental crime is also perceived and expressed in multiple ways. For example, in terms of the perspective from the signs of environmental damage, Interpol and the United Nations Environment Programme (UNEP) define “environmental crime as a general term describing illegal activities that are harmful to environmental restoration and are intended to benefit individuals or groups/companies from the exploitation, damage, commercialization or illegal exploitation of natural resources, including, but not limited to, serious crimes and transnational organized crime”.¹⁷

Based on this definition, Interpol and UNEP identify three characteristics of modern environmental crime: (i) the activity is illegal; (ii) these acts can harm the environment and impose illegal benefits to specific individuals and organisations; (iii) this category of crime is considered serious and transnational organised crime.

Beyond this legal-institutional perspective, the Environmental Investigation Agency (EIA) identifies the above-mentioned issue as follows: “Environmental crime is an illegal act that directly causes harm to the environment, including illegal wildlife trade, business in ozone-depleting substances (ODS), illegal trade in hazardous waste, illegal and unregulated fishing, and timber smuggling”.¹⁸

Criminologists Lynch and Nancy Frank were the first to introduce the term “green criminology”, which refers to crimes that directly harm the environment or indirectly cause damage and destruction to it.¹⁹ Environmental crimes, under this concept, transcend national boundaries and encompass air pollution, water pollution, deforestation, wildlife loss, and the dumping of hazardous waste.²⁰ These are five common categories of environmental violations.

The above-mentioned concept was officially introduced at the Conference of the European Society of Criminology in Slovenia and has since been widely adopted by many other studies in the field of transnational environmental crimes and the analysis of the negative ecological impact of globalisation. Thus, amongst the concept of green criminology by Lynch and Nancy Frank and the concept of environmental crime proposed by UNEP and Interpol, there is a similarity in pointing out five abovementioned categories and their specific objects of impact, in which the acts are possible to directly or indirectly cause damage to the

16 European Union Agency for Criminal Justice Cooperation (Eurojust), *Report on Eurojust's Casework on Environmental Crime* (Criminal justice across borders, Eurojust 2021) doi:10.2812/439500.

17 Nellesmann and others (n 1) 17.

18 Mary Rice (ed), *Environmental Crime: A Threat to Our Future* (EIA 2008).

19 Nancy K Frank and Michael J Lynch, *Corporate Crime Corporate Violence: A Primer* (Harrow & Heston 1992).

20 Rob White (ed), *Green Criminology* (Routledge 2014) 9.

environment.²¹ However, the concept of green criminology offers a broader interdisciplinary approach grounded in a criminological theory.²²

In the European Union (EU), environmental criminal law has evolved into a distinct and autonomous legal field. The term environmental crime encompasses various areas, and whether a particular conduct is punishable as a crime may depend on whether an administrative permit permits the conduct in question.²³

Under the Environmental Crime Directive (ECD), conduct constitutes a criminal offence if it is "unlawful", meaning:

- (1) It violates EU law adopted to achieve one of the objectives in Article 191(1) TFEU.²⁴
This covers all EU law contributing to these objectives, *irrespective* of its legal basis.²⁵
- (2) It constitutes a breach of a national administrative regulation or decision, giving effect to Union environmental law.

In some cases, a specific *consequence of a conduct* must follow for the conduct to be considered criminal, and sometimes *a specific effect is also required*. A conduct constitutes a criminal offence when committed *intentionally* and, for some crimes, also when committed with *at least serious negligence*. Failure to comply with a legal duty to act can have the same negative effect on the environment and human health as active conduct. Therefore, the definition of criminal offences covers both acts and omissions, where applicable.²⁶

In Vietnam, environmental crimes have been a significant concern for researchers to study since the end of the 20th century, particularly with the rapid urbanisation and industrialisation. Nevertheless, while the topic has been discussed in scientific research works, the concept has not been legalised in the Penal Code. Within the realm of Vietnamese criminal law, various interpretations of environmental crimes exist. For example, some scholars describe ecological crimes as socially dangerous acts regulated by the Penal Code that violate relations related to the protection of a favourable natural environment, connected with quality, sustainability and the stability of the environment, to the rational consumption of natural resources and the assurance of ecological security for the population.²⁷

21 Nellemann and others (n 1).

22 White (n 20).

23 Christiane Gerstetter and others, *Environmental Crime and the EU: Synthesis of the Research Project "European Union Action to Fight Environmental Crime" (EFFACE)* (Ecologic Institute gGmbH 2016) 30.

24 Directive (EU) 2024/1203 (n 13) recital 9, art 3, para 1 a) and b).

25 E.g., acts adopted based on TFEU Arts. 91, 114, 168 or 192, or, under national laws, administrative regulations or decisions giving effect to that Union law.

26 Directive (EU) 2024/1203 (n 13) recitals 9 and 26, art 3.

27 Pham Van Loi (ed), *Environmental Crime: Several Theoretical and Empirical Issues* (CTQGST 2004) 95.

Another point of view defines environmental crimes as socially dangerous and wrongful acts opposed to state regulations on environmental protection, thereby causing damage to the environment.²⁸

Under the concept of environmental crimes, acts related to climate change are defined as those that pose a danger to society, are unlawful, and lead to direct or indirect damage to the natural ecosystem, particularly exacerbating issues related to climate change.

Environmental crimes related to climate change include:

- Illegal acts such as wrongful exploitation of natural resources, excessive greenhouse gas emissions
- Large-scale deforestation, unlawful wildlife trade, and violations of international environmental protection regulations.
- Illegal greenhouse gas emissions, particularly from factories, vehicles, or industrial activities that demonstrate non-compliance with regulations on CO₂, CH₄, N₂O emission control;²⁹
- Deforestation and illegal logging, which reduce the Earth's natural ability to absorb CO₂, contributing to increased greenhouse gas concentrations in the atmosphere;³⁰
- Illegal fossil fuel exploitation and consumption, including illegal coal and oil mining, or fraudulent emissions reporting;³¹
- Illegal trading and disposal of hazardous waste, especially industrial waste that pollutes air, land and water resources.³²

3.2. Characteristics

Firstly, environmental crimes related to climate change cause harm to specific subjects, including natural and artificial environmental factors. In recent decades, the concept of environmental crime has been raised, referring to ecological damage characterised by widespread, long-term, and serious phenomena. Environmental damage is often irreversible; in concrete terms, the degradation of the environment caused by environmental destruction is so extensive that the natural environment cannot be fully restored to its original state. It has been considered that if nature is destroyed, its

28 Nguyen Ngoc Kien (ed), *Vietnamese Criminal Law: Textbook (General Part)* (Judicial Publishing House 2020) 410.

29 INTERPOL and United Nations Environment Programme (UNEP), *Strategic Report: Environment, Peace and Security – A Convergence of Threats* (UNEP 2016) 15.

30 Food and Agriculture Organization (FAO) and United Nations Environment Programme (UNEP), *The State of the World's Forests 2020: Forests, Biodiversity and People* (FAO 2020) 34-6, doi:10.4060/ca8642en.

31 Milan Grohol and Constanze Veeh, *Study on the Critical Raw Materials for the EU 2023: Final Report of the European Commission* (Office of the EU 2023) doi:10.2873/725585; Environmental Investigation Agency (EIA), *Ocean. Dirty Deals: Evidencing Illegalities in the Global Plastic Waste Trade*, pt 1, 2 (EIA 2024).

32 *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal* (adopted 22 March 1989, effective 5 May 1992) [1999] UNTS 1673/57.

restoration is impossible and eventually human life, as well as animal and plant species, may be permanently affected.

This ideology was noted in the Stockholm Declaration of 1972,³³ which states that the natural and artificial environment are essential to social welfare and have an impact on the possession of human fundamental rights, such as the right to life. Although the classification is provided, it is essential to understand that environmental factors are interrelated and influence each other, and are not divided in numerous cases. For example, air pollution accelerates climate change and global warming, which in turn threaten biodiversity, drive phenomena like El Niño and La Niña, and lead to production stagnation and destruction of human property through natural disasters.

Secondly, environmental crimes related to climate change are inherently long-term and transnational, with consequences that cannot be contained within borders.³⁴ These crimes affect not only a specific area but also spread across cross-border territories and countries, with inter-regional and international elements that can impact individuals, communities, and residential areas. The consequences of environmental crimes related to climate change are difficult to identify immediately.

For example, it is such a process of research and assessment by experts in many fields to pinpoint the problem of environmental pollution causing climate change, leading ultimately to the deterioration of human living conditions. Thus, the cause of climate change is the result of a long period of natural destruction, modifying and degrading the features of the natural environment, leading to the extinction of many species of organisms as well as the human mutable habitat in a negative direction. Thus, environmental crimes related to climate change harm society as a whole, which can have adverse consequences for the economy and national security, including declines in public health, livelihoods, and property values. Based on the aforementioned analysis, it is concluded that its immediate effects are detrimental to the current lives of people, nature, and future generations.

Thirdly, environmental destruction linked to climate change is complex and varies significantly, making it challenging to assess. The degree of social danger posed by environmental crimes is reflected in the types of harmful behaviours committed. These crimes can be categorised into two main groups:

- (i) Direct acts that harm the environment, such as pollution, wildlife crimes, and illegal resource exploitation
- (ii) Indirect acts, often protected by government licenses, like mineral exploitation, forestry, and waste trading, complicate regulatory enforcement and can obscure the illegal nature of certain activities.³⁵

33 *Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration)* (adopted 16 June 1972) preamble, para 1 <<https://docs.un.org/en/A/CONF.48/14/Rev.1>> accessed 19 June 2025.

34 Rice (n 18) 2.

35 Nguyen Van Gung, *Some Environmental Protection Issues with Economic Development in Our Country Today* (National Political Publishing House 2004) 44.

Thus, victims of environmental crimes related to climate change confront the challenge to the notion of traditional crime. Victimhood may extend to non-human entities, such as natural organisms excluding humans, environmental components and future generations.

Fourthly, the damage caused by environmental crimes related to climate change remains difficult to quantify and identify, and has adverse effects over a prolonged period.³⁶ Although the damage from environmental crimes linked to climate change is hard to quantify in the short term, it has significant long-term effects on humans and ecosystems. These include animal deaths, disease spread, and altered radioactive backgrounds. Long-term impacts manifest as rising global temperatures, severe heat waves, melting ice, rising sea levels causing coastal flooding, and extreme weather events leading to increased diseases and forest fires.³⁷ In the pursuit of economic, scientific, and technological advancement, the extensive exploitation of natural resources leads to depleted resources and severe pollution of land, water, and air, along with the extinction of various species. Such environmental encroachment damages ecosystems and disrupts their functions, making regeneration nearly impossible. While human efforts can mitigate further damage, they cannot fully restore lost environmental functions, threatening the well-being and development of present and future generations.³⁸

Fifthly, the subjects of environmental crimes related to climate change are natural individuals and legal persons. The current trend in the world is to increase the criminal responsibility of legal persons in the environmental field, because the influence and expansion of multinational and transnational corporations are increasingly considerable. With this scale, there is a shift in environmental pollution behaviour from developed countries to developing and underdeveloped countries.³⁹ It is necessary to address this practical concern by determining the criminal responsibility of legal persons in the environmental field and considering them as the primary and fundamental subjects of environmental crimes, which differs from individuals.

It is essential to address the collective responsibility of all parties involved in environmental crimes, including the legal entities committing the offences, the business leaders, and the employees who carry out these acts. Without the benefit of legal persons, such environmental infringement would likely not occur. These acts often require the direction or approval of the leadership within the business corporation, and employees then comply by committing the violations. The abovementioned analysis demonstrates that environmental crimes typically involve elements of complicity and organised coordination among multiple actors.

36 Hoang Thu, 'Difficult to Determine the Consequences of Environmental Crimes' *Pháp luật Việt Nam* (Hanoi, 27 October 2010) <<https://baophapluat.vn/post-79495.html>> accessed 19 June 2025.

37 'Top 6 Consequences of Global Climate Change' (*Công Ty Cổ Phần Xây Dựng Và Công Nghệ Môi Trường Hợp Nhất*, 27 October 2022) <<https://moitruonghopnhat.com/top-6-hau-qua-cua-hien-tuong-bien-doi-khi-hau-toan-cau-2466.html>> accessed 19 June 2025.

38 Nellemann and others (n 1) 13.

39 Supreme Court of Japan, *Outline of Criminal Justice in Japan* (Supreme Court of Japan 2016).

4 INTERNATIONAL REGULATIONS ON CLIMATE-RELATED ENVIRONMENTAL CRIMES AND THEIR INCORPORATION INTO THE VIETNAMESE CRIMINAL LAW

4.1. International Legal Foundation on Climate-related Environmental Crimes

International practice indicates that, although environmental crime has become a matter of common concern for the global community, it remains a legal domain where international law provides relatively limited—and even more ambiguous—regulation compared to other areas of international environmental law. Nevertheless, this does not imply that states are "ignoring" or underestimating the seriousness of the issue. Rather, it is a complex matter, closely intertwined with national sovereignty and security concerns, and therefore requires careful, multidimensional research and discussion.

4.1.1. Perspectives on the Criminalisation of Ecocide under International Criminal Law

At the international level, the term "ecocide" has yet to be consistently defined due to the existence of various competing proposals and differing requirements.⁴⁰ In addition, concerning the criminalisation of environmental crimes (ecocide), the Rome Statute of the International Criminal Court (ICC) currently does not include any provisions on this offence.

Nevertheless, several countries have put forward proposals to incorporate ecocide into the Statute, given the dangerous nature and destructive impact such crimes may have on humanity. However, some studies also indicate that the proposal to include ecocide in the Rome Statute—on par with genocide or crimes against humanity—may not be entirely appropriate and could risk overextending the concept beyond its normative boundaries. It has been argued that such an inclusion may "exacerbate the ordinary thresholds and... make it difficult to reconcile the existing anthropocentric provisions with the proposed ecocide offence".⁴¹ Therefore, some scholars argue that, rather than pursuing international criminalisation, it may be more effective and timely for states to focus on recognising and enforcing environmental crimes within their respective domestic criminal law systems.⁴²

40 Ritwik Sharma, 'Ecocide as the Fifth International Crime: Is the Rome Statute Compatible with Ecocide?' (*Völkerrechtsblog*, 16 January 2025) doi:10.17176/20250116-225415-0.

41 *ibid.*

42 *ibid.*

4.1.2. The International Obligations of States in Responding to Environmental Crime in General

In reality, the international legal system does not yet have a single, comprehensive instrument governing environmental crimes in general. However, the issue has been addressed in several key international legal instruments, which place particular emphasis on the international obligations of states in responding to such crimes. Specifically:

Although UNCLOS does not contain explicit provisions on climate-related environmental crimes, it does incorporate clauses addressing marine pollution, as evidenced by its dedicated section (Part XII), which outlines various approaches to the prevention, reduction, and control of marine environmental pollution—particularly from Article 192 onwards.⁴³ Article 192 stipulates that “States have the obligation to protect and preserve the marine environment”.⁴⁴ In particular, with regard to the obligation to prevent pollution, including greenhouse gas emissions, Article 194 of UNCLOS provides that:

“States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment”; and that

“The measures taken pursuant to this Part shall deal with all sources of pollution of the marine environment...”⁴⁵ and may potentially constitute environmental crimes.

These obligations were further reiterated in the 2011 Advisory Opinion of the International Tribunal for the Law of the Sea (ITLOS), which affirmed that the protection of the marine environment is a legal obligation of States. The Tribunal emphasised that States must take active measures to protect the marine environment, including adopting preventive actions, conducting environmental impact assessments, and developing and enforcing domestic legislation in conformity with UNCLOS and relevant international regulations.⁴⁶

Overall, these provisions have established legal obligations for States in the protection of the marine environment and serve as a legal basis for preventing violations of marine environmental law by States. In particular, Article 235 of UNCLOS may be regarded as a legal foundation for determining State responsibility in improving domestic criminal legislation to protect and preserve the marine environment.

43 Luisa Cortat Simonetti Goncalves and Michael Gerbert Faure, ‘International Law Instruments to Address the Plastic Soup’ (2019) 43(3) *William & Mary Environmental Law and Policy Review* 871, 893, doi:10.2139/ssrn.3405968; Nguyen Thi Hong Yen and Nguyen Phuong Dung, ‘Marine Pollution Management in Response to Plastic Waste under International Law and National Law – Challenges and Implications for Developing Countries: A Case Study of Vietnam’ (2023) 26(2) *Asia Pacific Journal of Environmental Law* 162, doi:10.4337/apjel.2023.02.02.

44 United Nations Convention on the Law of the Sea (UNCLOS) (signed 10 December 1982) [1998] UNTS 1833/3, art 192.

45 *ibid*, art 194.

46 *Case No 17 Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area (Request for Advisory Opinion Submitted to the Seabed Disputes Chamber)* (ITLOS, 1 February 2011) <<https://www.itlos.org/index.php?id=109>> accessed 20 May 2025.

Although environmental crimes are not directly stipulated, these obligations are subsequently reaffirmed in several other necessary international legal instruments, such as the Convention on Biological Diversity (CBD), particularly in Articles 6, 8, and 14.⁴⁷ The 2015 Paris Agreement on Climate Change, in Articles 4, 7, 13, and 15, sets out obligations regarding emission reductions.⁴⁸

At the regional level, Europe is considered to have relatively comprehensive and well-defined regulations concerning environmental crime. The new Environmental Crime Directive of the EU was adopted on 11 April 2024 and entered into force on 20 May 2024, supporting the protection of the environment through criminal law and replacing the 2008 Environmental Crime Directive. To address the shortcomings in the effectiveness of environmental criminal law, the new Directive establishes minimum rules regarding the definition of criminal offences and penalties to protect the environment more effectively, as well as measures to prevent and combat environmental crime.⁴⁹

4.2. Provisions of Vietnamese Criminal Law in Relation to the Country's International Commitments on Combating Environmental Crime

In Vietnam, during the early stages following independence, environmental protection received little attention, as the country was still engaged in the struggle for national reunification and focused primarily on socio-economic development. However, since the initiation of the *Đổi Mới* (Renovation) policy in 1986, Vietnam has placed greater emphasis on environmental protection alongside its economic and social development goals. The country has proactively acceded to key international treaties such as the United Nations Convention on the Law of the Sea (UNCLOS), the Convention on Biological Diversity (CBD), the United Nations Framework Convention on Climate Change (UNFCCC), the Stockholm Convention on Persistent Organic Pollutants (POPs, 2001), the Paris Agreement on Climate Change (2015), the United Nations Convention against Transnational Organized Crime (UNTOC, 2000), and the United Nations Convention against Corruption (UNCAC, 2003), among others.

To fulfil the obligations stipulated in these international treaties, Vietnam has, in recent years, made considerable efforts to incorporate these commitments into its domestic legal framework by enhancing national environmental protection laws in general and by criminalising acts related to environmental violations in its Penal Code in particular.

The National Strategy on Crime Prevention and Control for 2016-2025, signed by the Prime Minister, emphasises the need to develop and refine the legal system. It focuses on

47 Convention on Biological Diversity (CBD) (signature 5 June 1992) [1993] OJ L 309/3.

48 Paris Agreement on Climate Change (adopted 12 December 2015) [2023] UNTS 3156/79.

49 Directive (EU) 2024/1203 (n 13).

researching and addressing emerging socially dangerous behaviours, particularly environmental crimes, and stresses the importance of updating criminal codes and providing guidance for implementing new laws.⁵⁰ Directive No. 36/CT-TW, dated June 25 1998, of the Politburo of the 8th Party Central Committee on *Strengthening environmental protection in the period of industrialisation and modernisation of the country* stated that environmental protection is the cause of the entire Party, and the whole population. It stresses that environmental protection constitutes a fundamental and inseparable component of national guidelines, policies and socio-economic development plans, serving as an essential basis for ensuring sustainable development and for successfully achieving the goals of industrialisation and modernisation.⁵¹

Recognising that, alongside environmental protection, Vietnam faces challenges from climate change and natural resource management—three issues that are organically linked and interact with each other—the Central Executive Committee issued Resolution 24-NQ/TW, dated 3 June 2013, of the 11th Central Executive Committee on proactively responding to climate change, strengthening resource management and environmental protection. The resolution states that “the environment is a global issue, environmental protection is both a goal and a fundamental content of sustainable development (...).”⁵²

Specifically, the 13th Congress continued to affirm that “protecting the environment and people's health is the top priority; resolutely eliminating projects that cause environmental pollution, ensuring the quality of the living environment, protecting biodiversity and ecosystems; building a green economy, a circular economy, and being environmentally friendly.”⁵³

To meet the requirements of crime prevention and combat in the new situation, ensure consistency with the international conventions that Vietnam has signed, and align with the changes in specialised environmental law regulations in the third codification, the Penal Code 2015 (amended and supplemented in 2017) has been refined to continue inheriting and promoting the advantages of the 1985 Penal Code and the 1999 Penal Code. In

50 Decision of the Prime Minister of Vietnam No 623/QĐ-TTg of 14 April 2016 ‘Approving the National Strategy for Crime Prevention and Control for the 2016-2025 Period and Orientation Towards 2030’ <<https://lawnet.vn/4B6B5/quyet-dinh-623-qd-ttg/tag.html>> accessed 19 June 2025.

51 Directive of the Politburo of the Communist Party of Vietnam No 36/1998/CT-TW of 25 June 1998 ‘On Strengthening Environmental Protection During the Period of Industrialization and Modernization of the Country’, ch I(A) <<https://m.thuvienphapluat.vn/van-ban/Tai-nguyen-Moi-truong/Chi-thi-36-1998-CT-TW-tang-cuong-cong-tac-bao-ve-moi-truong-thoi-ky-cong-nghiep-hoa-hien-dai-hoa-dat-nuoc-47395.aspx>> accessed 19 June 2025.

52 Resolution of the Central Executive Committee of the Communist Party of Vietnam No 24-NQ/TW of 3 June 2013 ‘On Proactively Responding to Climate Change, Strengthening Resource Management and Environmental Protection’ <<https://thuvienphapluat.vn/van-ban/Tai-nguyen-Moi-truong/Nghi-quyet-24-NQ-TW-nam-2013-ung-pho-bien-doi-khi-hau-bao-ve-moi-truong-194312.aspx>> accessed 19 June 2025.

53 Communist Party of Vietnam, *Documents of the 13th National Congress of Delegates*, vol 1, (National Political Publishing House 2021) 117.

Vietnam, the Penal Code is currently the primary legal document governing the handling of environmental crimes.⁵⁴

4.2.1. The criminalisation of environmental offences under Vietnam's criminal law

Although the 2015 Vietnamese Penal Code (amended in 2017) includes a separate chapter on environmental crimes, it does not yet define any environmental offence as one related to climate change.⁵⁵ The current legal framework has yet to quantify the climate change impact of environmental criminal acts. In practice—such as in cases of deforestation in Tay Nguyen or illegal disposal of hazardous waste—the prosecution of criminal responsibility remains inadequate due to the lack of legal grounds to establish consequences such as “causing climate change.”⁵⁶ As a result, many acts that have the potential to cause long-term damage to the climate are still dealt with lightly or go unpunished. Nevertheless, the gradual criminalisation of environmental protection violations is also regarded as a result of Vietnam’s efforts, laying the groundwork and legal foundation for the future inclusion of climate-related environmental crimes.

The current Vietnamese Penal Code, based on the inheritance and development of previous versions, has stipulated 12 environmental crimes in Chapter XIX from Article 235 to Article 246 (Table 1).⁵⁷

Table 1. Environmental crimes under the Penal Code of Vietnam

<i>Name of Crime</i>	<i>Penal Code</i>
Crime of causing environmental pollution	Article 235
Crime of violating regulations on hazardous waste management	Article 236
Crime of violating regulations on prevention, response and remediation of environmental incidents	Article 237
Crime of violating regulations on protecting the safety of irrigation works, dykes and preventing and combating natural disasters; violating regulations on protecting river banks and beaches	Article 238
Crime of bringing waste into the territory of Vietnam	Article 239
Crime of spreading dangerous infectious diseases to humans	Article 240

⁵⁴ Law of Vietnam No 100/2015/QH13 (n 6).

⁵⁵ Ibid, ch XIX.

⁵⁶ Chinh Cuong, ‘How Did 16 People Destroy Forests in Yok Don National Park?’ [2018] Kiemsat <<https://kiemsat.vn/16-doi-tuong-pha-rung-o-vuon-quoc-gia-yok-don-nhu-the-nao-49233.html>> accessed 17 July 2025.

⁵⁷ Law of Vietnam No 100/2015/QH13 (n 6) ch XIX, arts 235–246.

Crime of spreading dangerous epidemics to animals and plants	Article 241
Crime of destroying aquatic resources	Article 242
Crime of destroying forests	Article 243
Crime of violating regulations on management and protection of endangered, precious and rare animals	Article 244
Crime of violating regulations on management of nature reserves	Article 245
Crime of importing and spreading invasive alien species	Article 246

Therefore, this chapter sets out twelve distinct environmental offences. Among these, based on their consequences and their underlying contribution to climate change, the offences that may be categorised as climate-related environmental crimes include: Environmental Pollution (Article 235), Violations of Regulations on the Management of Hazardous Waste (Article 236), and Forest Destruction (Article 243). These offences illustrate the range of offences contributing to environmental degradation and climate change.

The consequences of environmental crimes related to climate change, in addition to causing climate change, can also lead to property damage, including actual damage and the costs of remedying the consequences that have occurred. Several crimes even cause harm to human life and health.

In terms of mens rea, environmental crimes related to climate change are committed intentionally, which means the offender is aware that their behaviour is dangerous to society, as well as foresees the consequences, whether with the intent to happen or, although not intending to, consciously allows them to happen.

The subjects of environmental crimes related to climate change include individuals or legal persons. For an individual to be subject to criminal liability for an environmental crime, they must be a specific person aged 16 or older, as defined in the Penal Code. Legal persons must meet four conditions for liability: the crime must be committed in the name of the entity, for its benefit, with its direction or approval, and within the statute of limitations. The legal person must act as an independent entity, committing defined crimes that harm the environment, under its management.

4.2.2. Recognition and Scope of Criminal Liability of Commercial Legal Entities for Environmental Violations

In Vietnam, as in other jurisdictions, the subjects of criminal violations in the field of the environment are highly diverse. These include enterprises, industrial production establishments, service businesses, resource exploitation and processing, as well as individuals participating in agricultural, forestry and fishery production, service businesses, waste collection and transportation, mineral exploitation and processing. It

can be seen that the subjects of environmental crime, in addition to individuals, also include legal persons. These subjects may be intentional or unintentional, but they mostly share the commonality that they intentionally commit illegal acts that harm the environment to achieve their interests.

According to the United Nations Interregional Crime and Justice Research Institute (UNICRI), the subject of environmental crime should be understood in a broader sense—extending beyond individuals and legal persons to include state legal persons and, in some cases, even states themselves.⁵⁸

Acts committed by commercial legal entities during business and production activities that result in environmental pollution constitute violations of environmental law, as well as other relevant legal provisions. These include prohibited conduct such as burying hazardous waste in soil, covering or discharging toxic substances into land and water environments, and releasing factory waste into water bodies and the atmosphere—particularly when the volume or nature of the discharge exceeds legally permitted limits or is outright banned. Such actions alter the composition of the environment and harm human health and ecosystems. During their operations, commercial legal entities may engage in conduct prohibited under Article 7 of the 2014 Law on Environmental Protection.⁵⁹

The 2015 Penal Code of Vietnam, as amended in 2017, is the first legal instrument to formally recognise the criminal liability of commercial legal entities for violations of environmental protection obligations committed in the course of business and production activities. Under this Code, the types of legal liability applicable to commercial legal entities for acts causing environmental pollution during business and production activities include civil liability, administrative liability, and criminal liability. In particular, regarding criminal liability, the Vietnamese Penal Code stipulates that commercial legal entities may be held criminally responsible for environmental offences, such as causing environmental pollution (Article 235) and violating regulations on environmental incident prevention, response, and remediation (Article 237), among others. According to the same law, the legal consequences imposed on commercial legal entities that violate environmental protection regulations may include principal penalties such as fines, temporary suspension of operations, or permanent cessation of operations. In addition to these principal penalties, supplementary penalties may also be applied, including prohibition from conducting business, prohibition from operating in certain sectors, prohibition from raising capital, and fines (in cases where a fine is not applied as a principal penalty).⁶⁰

58 Ragnhild Sollund, Christoph H Stefes and Anna Rita Germani (eds), *Fighting Environmental Crime in Europe and Beyond: The Role of the EU and Its Member States* (Palgrave Macmillan 2016) 4, doi:10.1057/978-1-349-95085-0.

59 Doan Trung Kien and Nguyen Thanh Mai, 'Legal Liability for Commercial Legal Entities Causing Environmental Pollution' [2020] Dân chủ và pháp luật <<https://danchuphapluat.vn/trach-nhiem-phap-ly-doi-voi-phap-nhan-thuong-mai-gay-o-nhiem-moi-truong-4045.html>> accessed 17 July 2025.

60 Law of Vietnam No 100/2015/QH13 (n 6).

5 EMERGING TRENDS IN ENVIRONMENTAL CRIMES DRIVEN BY CLIMATE CHANGE IN VIETNAM

Climate change has intensified natural disasters, particularly storms, floods, and droughts, making them increasingly severe. This has led to adverse environmental changes and ecological crises, thereby posing a threat to national security.

According to the Global Climate Risk Index 2016, Vietnam ranks as the seventh country globally in terms of long-term climate risks. Data from the Institute of Meteorology, Hydrology and Climate Change further indicate that, over the past 30 years, natural disasters in Vietnam have resulted annually in an average of approximately 500 deaths, thousands of injuries, and economic losses of up to 1.5% of GDP.⁶¹ In recent years, the situation of environmental crimes and violations of environmental laws has become very complicated and widespread in many areas of social life. Such crimes have led to the depletion of natural resources, exacerbated climate change, and degraded environmental quality, with significant consequences for public health and the country's sustainable development. In some areas and fields, criminal activities and violations of environmental laws have complicated the security and order situation. The likely trajectory of climate change-related environmental crimes can be anticipated in several key aspects, as outlined below:

Firstly, environmental crime is expected to become increasingly complex and prevalent in the near future, potentially impacting various environmental fields, including climate change. According to the EIA, environmental crime is among the most profitable forms of crime activity, with annual profits estimated to be in the tens of billions of dollars.⁶² The sudden increase of environmental crimes related to climate change is also due to the characteristics of this type of crime; unlike other violent crimes, transactions and behaviours that are dangerous to society are often mistaken, and their social consequences are underestimated. In the coming years, environmental pollution, climate change, biodiversity loss, land degradation, and the depletion of water resources, as well as the impact on the marine environment, will continue to be global issues, altering natural ecosystems and affecting economic and social life around the world. Environmental crimes related to climate change are becoming increasingly diverse, especially in the fields of chemical and heavy metal pollution, electronic waste pollution, and air pollution due to climate change—and may give rise to new forms of environmental crime of an international nature requiring prevention.

Secondly, in Vietnam, environmental crimes related to climate change are becoming increasingly sophisticated and difficult to detect. This sophistication is often facilitated by

61 'Climate Change Threatens Environmental Security' *Báo Nông Nghiệp và Môi trường* (Hanoi, 28 November 2018) <<https://baotainguyenmoitruong.vn/bien-doi-khi-hau-de-doa-an-ninh-moi-truong-241796.html>> accessed 21 February 2025.

62 Nellesmann and others (n 1); Rice (n 18).

the fact that it can be concealed through legal forms, such as mineral exploitation licenses, goods import licenses, fake customs documents, as well as collusion between criminals and competent persons in state agencies through acts of corruption. Corruption can be considered one of the reasons why environmental crimes related to climate change are becoming more sophisticated and challenging to detect, as it allows those in positions of authority to suppress or withhold critical information. If properly assessed, these crimes could be effectively mitigated or prevented from occurring. Failure to act enables offenders to reap greater benefits, amass wealth, and take advantage of illicit funds to bribe and obstruct environmental law enforcement agencies.

A joint report by INTERPOL and the United Nations covering 70 countries around the world focused on the global environmental crime connection, estimated worth up to USD 258 billion annually, with other types of crime.⁶³ The report found that 60% of countries identified environmental crime as a newly emerging and increasingly sophisticated phenomenon with transnational links, while 84% reported connections between environmental crime and other serious offences, including corruption, counterfeiting, drug trafficking, cybercrime and financial crimes.

Thirdly, environmental crimes related to climate change with foreign elements are on the increase, and Vietnam has increasingly become a transit country for some types of transnational environmental crime.⁶⁴ In recent years, the country's national international economic integration policy has been more open and created more favourable conditions for foreigners to enter Vietnam for investment, tourism, and business. While this has brought economic benefits, it has also contributed to the growing seriousness and complexity of crimes involving foreign actors, including environmental crime. The EIA notes that environmental crime is inherently cross-border in nature and has evolved into an international criminal syndicate.⁶⁵ In an era of global free trade, the ease of communication, goods transportation, and money transfer has created favourable conditions for such criminal groups to operate. As a developing country, Vietnam cannot avoid these impacts. Environmental crime with foreign elements in Vietnam includes industrial waste treatment, the import of outdated machinery, equipment, and scrap, the trafficking of rare and wild animals, and illegal mineral exploitation.⁶⁶

Fourthly, globalisation significantly affects environmental protection and the issue of environmental crime related to climate change. Researchers have long highlighted its negative aspects. This phenomenon is unavoidable—no country is immune to its influence. Globalisation often prompts multinational companies to relocate operations from

63 Nellemann and others (n 1) 4.

64 United Nations Office on Drugs and Crime (UNODC), *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact* (UNODC 2019); Environmental Investigation Agency (EIA), *Wildlife. Vietnam's Footprint in Africa: An Analysis of the Role of Vietnamese Criminal Groups in Wildlife Trafficking* (EIA 2021).

65 Rice (n 18) 1.

66 Nellemann and others (n 1).

developed to developing countries, where labour is cheaper and environmental regulations are weaker. Consequently, countries may face environmental degradation as a short-term cost of economic development. While globalisation brings both opportunities and challenges, its interconnectedness intensifies challenges such as disease spread, trade issues, terrorism, and pollution—particularly greenhouse gas emissions. These factors lead to shared health and environmental risks that must be addressed collaboratively.

From the above analysis, it can be seen that the trend of Education for Nature – Vietnam (ENV) environmental crimes related to climate change in the coming period will focus on the following issues:

- i) A potential increase in environmental crimes related to climate change, with the emergence of numerous new acts of environmental infringement associated with sophistication, making it more difficult to assess the social and environmental dangers, as well as their harmful consequences.
- ii) The development of more organised and professional transnational environmental crime networks, with the participation of many individuals and organisations in the country as well as abroad.
- iii) Increasing complexity in domestic environmental crimes related to climate change, particularly those involving commercial legal entities and other organisations related to national policy institutions.

Environmental crimes related to climate change are viewed as non-traditional offences—a relatively new type of crime that is challenging to identify and control due to its complex nature, evolving developments, and long-term, inter-regional, and inter-territorial implications. While forecasting trends in such crimes has partly controlled the increase of this new type of non-traditional crime, significant challenges remain for prevention, detection, and enforcement in the years ahead.

6 SUGGESTIONS

From the above analysis, the author proposes the following specific suggestions and recommendations:

Firstly, Vietnam's criminal law on environmental crimes related to climate change should be further developed in the following respects. In light of the primary approach, it is necessary to continue supplementing and internalising violations of environmental law related to climate change in international law into the chapter on environmental crimes in the current Penal Code. This reflects the international legal principle of *pacta sunt servanda*, which underscores the duty of good faith and commitment in the performance of international agreements. For example, the Montreal Protocol on Substances that Deplete the Ozone Layer explicitly identifies specific ozone-depleting substances and obliges States

Parties to incorporate corresponding measures into their domestic legal systems to restrict or prohibit activities that harm the ozone layer.⁶⁷ These framework obligations require States to take effective action to protect atmospheric integrity, public health, and the environment—potentially through a range of legal instruments, including criminal law. In this context, the author recommends the criminalisation of the illegal trade in ozone-depleting substances as a necessary step to enhance compliance and enforcement under international environmental law.

Similarly, the United Nations Framework Convention on Climate Change (UNFCCC) and the 2015 Paris Agreement⁶⁸ set out obligations for States to reduce greenhouse gas emissions and recognise violations of these commitments. Accordingly, the author recommends that excessive greenhouse gas emissions be incorporated into domestic legislation by criminalising such conduct under Articles 235 and 236 of the current Penal Code.

Current research indicates that while the Penal Code's environmental crime provisions have improved over time, they remain incomplete and incomprehensive. Notably, certain violations that have the potential to directly harm the environment and exacerbate the impacts of climate change on humans and ecosystems have not yet been clearly regulated. Examples include pollution from traditional craft villages due to untreated discharges, or air pollution caused by activities such as open burning of waste, coal, and the handling of brick kiln waste in rural areas.⁶⁹

One of the reasons is that these acts are often carried out on a small scale and do not yet meet the threshold of “causing serious consequences” to warrant criminal prosecution. In addition, Vietnam's criminal law does not currently provide for specific offences addressing violations of international climate obligations, such as fraud in greenhouse gas emissions reporting, concealment of information on transboundary environmental pollution, acts of trafficking in ozone-depleting substances, illegal trading of hazardous wastes, illegal fishing and exploitation of natural resources, violations of biosafety regulations, and improper handling of hazardous wastes. Addressing these legal gaps is essential to establishing a comprehensive and adequate legal framework for prosecuting emerging environmental crimes.

Secondly, the penalties for environmental crimes related to climate change should be significantly increased. Such crimes cause long-term harm to ecosystems and human health, with remediation costs often far exceeding the immediate economic losses. Currently, the handling of environmental offences is mainly limited to administrative sanctions; few criminal cases are brought to trial, despite the fact that environmental damage is often severe

67 Montreal Protocol on Substances that Deplete the Ozone Layer (signed 16 September 1987) [1989] UNTS 1522/28.

68 United Nations Framework Convention on Climate Change (UNFCCC) (signed 9 May 1992) [1994] UNTS 1771/164; Paris Agreement (n 48).

69 Cao Ngoc Anh and Tanya Wyatt, ‘A Green Criminological Exploration of Illegal Wildlife Trade in Vietnam’ (2013) 8(2) *Asian Journal of Criminology* 129, doi:10.1007/s11417-012-9154-y.

and long-lasting.⁷⁰ The case of C.P. Vietnam Corporation (Dong Nai) illustrates this shortcoming: the company failed to conduct an environmental impact assessment, causing serious harm to human health and the environment. Yet the company was only subjected to an administrative fine of VND 790 million (approximately USD 31,000) and was not criminally prosecuted.⁷¹

For frequent and large-scale violations, especially by major corporations, administrative sanctions alone are insufficient. These cases should also be subject to criminal prosecution for environmental offences to uphold the seriousness and deterrent effect of the law against intentional violations. Clearly and specifically codifying these offences in national legislation not only ensures legal clarity but also aligns with the international legal principle of *nullum crimen sine lege*. This is consistent with the basis for criminal liability under Vietnamese Criminal Law, which states: “Only those who commit an act that is defined as a crime in the Criminal Code shall bear criminal responsibility.”⁷²

Thirdly, consideration should be given to the establishment of a specialised environmental court. In practice, the resolution of environmental disputes is often delayed due to the complex burden of proof and the need for specialised assessments of damages suffered by affected individuals—damages which may seriously impact their lives, health, and livelihoods. Therefore, the creation of a dedicated environmental court, staffed by judges with expertise in environmental law, is deemed necessary to ensure effective and comprehensive adjudication of large-scale pollution cases, particularly those that cause harm to multiple households across different regions.⁷³ This would not only strengthen domestic environmental governance but also provide an opportunity for Vietnam to fulfil its international commitments to environmental protection. Such courts have already been adopted in several jurisdictions around the world.⁷⁴

Fourthly, state management of environmental protection should be strengthened by improving the legal system, mechanisms, and policies on environmental protection and sustainable development. Clear guidance should be issued on the application of the Penal

70 Trinh Quoc Toan, ‘Perfecting Vietnam’s Criminal Law in the Context of Climate Change’ [2023] 1 *Tạp chí Luật học* 45.

71 Thanh Huy, ‘CP Vietnam Company Was Once Fined Nearly 790 million VND for Environmental Violations’ *Kinh tế & Đô thị* (Hanoi, 3 June 2025) <<https://kinhtedothi.vn/cong-ty-c-p-viet-nam-tung-bi-phat-gan-790-trieu-dong-ve-vi-pham-moi-truong.723299.html>> accessed 19 June 2025.

72 Law of Vietnam No 100/2015/QH13 (n 6) art 2.

73 Nguyen Thi Thu Hien, ‘It is Necessary to Establish a Specialized Environmental Court in Vietnam’ *Congly* (Hanoi, 7 July 2021) <<https://congly.vn/can-thiet-thanh-lap-toa-an-chuyen-trach-ve-moi-truong-o-viet-nam-190742.html>> accessed 19 June 2025.

74 Nguyen Thi Thu Hien and Phung Thang, ‘The Current Situation of Environmental Crime Trials and the Need to Establish a Specialized Environmental Court’ [2021] *Tòa án nhân dân* <<https://tapchitoaan.vn/thuc-trang-xet-xu-toi-pham-ve-moi-truong-va-su-can-thiet-thanh-lap-toa-chuyen-trach-ve-moi-truong>> accessed 19 June 2025.

Code 2015 environmental crime provisions, along with regulations governing compensation for damages caused by violations of environmental protection laws.

Fifthly, international cooperation in preventing and combating environmental crimes related to climate change should be enhanced, especially for transnational environmental crimes. Vietnam should expand its role in sharing information and data related to pollution sources, thereby supporting the investigation, tracking, and prosecution of environmental crimes in general.

Finally, public awareness, legal education, and dissemination of criminal law provisions related to environmental crimes related to climate change must be intensified. Legal policies in this field should be guided by the dual objectives of environmental protection and the safeguarding of human rights, particularly the right to live in a clean environment. However, if such policies are not propagated, disseminated and implemented in practice, even if they are well-crafted provisions, they will have limited impact. Continuous and systematic legal education can cultivate legal literacy, foster positive legal motivations and behaviours as well as legal trust, thereby generating feelings of respect for the law and habits of behaving in accordance with legal regulations.

7 CONCLUSION

Environmental crime, and climate-related environmental crime in particular, has become a shared concern among nations, given the increasing frequency, complexity, and diversity of environmental violations. While the current international legal framework remains insufficiently detailed and lacks the comprehensiveness necessary to serve as a fully effective legal basis for the prevention and suppression of such crimes, its legal value cannot be denied—particularly in providing a foundation for the improvement of national criminal and environmental law systems.

As an active member in addressing common challenges of the international community, Vietnam has, in recent years, proactively participated in key international treaties aimed at combating environmental pollution, thereby establishing an international legal basis for the domestic incorporation of environmental crime regulations. The process of revising and supplementing provisions on environmental crime in the 2015 Criminal Code serves as clear evidence of this effort.

Fundamentally, the above analysis demonstrates that Vietnam's legal system already incorporates provisions that criminalise environmental offences, along with provisions concerning the responsibilities of various societal actors in protecting the environment. However, in light of the increasing prevalence, sophistication, and anticipated future development of this type of crime, such legal provisions remain limited, hindering the effective enforcement of environmental law. Therefore, beyond legislative efforts, Vietnam must adopt a comprehensive approach to combating climate-related environmental crime,

including strengthening law enforcement and application, enhancing international cooperation, and promoting awareness and education among different segments of society, so that environmental protection becomes a shared and collective responsibility.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

МІЖНАРОДНІ ТА НАЦІОНАЛЬНІ ПРАВОВІ БАЗИ ДЛЯ БОРОТЬБИ ЗІ ЗЛОЧИНАМИ ПРОТИ ДОВКІЛЛЯ, ЩО СПРИЧИНЯЮТЬ ЗМІНУ КЛІМАТУ: ФОКУС НА В'ЄТНАМІ

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АНОТАЦІЯ

Вступ. Злочини проти довкілля, пов'язані зі зміною клімату, охоплюють протиправні діяння, які завдають шкоди природному середовищу та поглиблюють кліматичні проблеми. Однак правова система В'єтнаму стикається зі значними обмеженнями у протидії цим правопорушенням, оскільки багато шкідливих діянь не кваліфікуються як злочини, а покарання часто не є пропорційними та не забезпечують стримувального ефекту. Тому дослідження кримінального законодавства В'єтнаму є важливим для покращення правового реагування на ці злочини проти довкілля.

Методи. Автор використовує різні методи соціологічних досліджень для кращого розуміння злочинів проти довкілля. Поєднання якісного правового дослідження, доктринального аналізу, порівняльних досліджень та аналізу конкретних випадків, дозволяє висвітлити як міжнародну, так і національну нормативно-правову базу. Доктринальний підхід дозволяє детально проаналізувати ці нормативні системи, тоді як порівняльний метод оцінює законодавство В'єтнаму на відповідність міжнародним

стандартам. Крім того, тематичні дослідження виявляють правові прогалини, які перешиковують притягненню до відповідальності за серйозну шкоду довкіллю. Ці комбіновані методи забезпечують всебічний аналіз питання.

Результати та висновки. У цій статті аналізуються міжнародно-правові інструменти разом із кримінальним законодавством В'єтнаму щодо злочинів проти довкілля, що спричиняють зміну клімату. У ній розглядаються ключові проблеми, нові тенденції та політичні заходи реагування. Зрештою, пропонуються правові та інституційні реформи, спрямовані на вдосконалення законодавчої бази та підвищення ефективності правозастосування.

Ключові слова: зміна клімату, злочини проти довкілля, кримінальне право, екологічне право, В'єтнам.