

• STOP ECOCIDE FOUNDATION •

Statement to the in-person (hybrid) segment of the First Global Meeting of National Focal Points to the Montevideo Programme V

6–9 June 2022, Nairobi / online

Your Excellencies, distinguished delegates, ladies and gentlemen

We are witnessing a rising level of frustration around the globe with regard to what has become known as the “triple crisis” of climate, pollution and nature loss. Despite the increasingly stark and urgent warnings of international reports¹, and the ambitious goals and targets of multilateral agreements and pledges², implementation and concrete action in the right direction are proving painfully slow and difficult. We believe this is in large part due to the absence of the requisite criminal law framework.

Most environmental law sits in the civil regulatory sphere, and while environmental crimes do exist these laws are often poorly enforced. Indeed, organized environmental criminal activity now ranks fourth in the world for criminal profitability³. Regulatory breaches, meanwhile, if pursued, tend to incur fines which are considered a cost of doing business.

While this problem is partly due to lack of training and the practical complexities of investigation, these aspects in turn speak to a fundamental problem of mindset. We treat severe damage to ecosystems as a regrettable side effect of established industrial practice, and do not recoil from it in the same way as we do from harming people. Yet science has been telling us for many years, in no uncertain terms, that we should, for very practical reasons: ecosystem destruction is a root cause of the triple crisis. Cultivating a new - **healthy** - taboo around seriously damaging the natural living world could enable us to protect the ecosystems that allow us to thrive.

¹ IPCC WGII & WGIII, 2022

² Glasgow Pact https://unfccc.int/sites/default/files/resource/cma2021_10_add1_adv.pdf; Agenda 2030 <https://sdgs.un.org/2030agenda>; Leaders Pledge for Nature <https://www.leaderspledgefornature.org>

³ Eurojust, Report on Eurojust’s Casework on Environmental Crime, January 2021

Criminal law has the capacity to do that. Making **ecocide** - severe and either widespread or long-term harm to nature - a crime can provide the guardrail to deter, prevent and sanction the very worst harms.

There is a clear gap here. When we advocate around human rights, at least we know that the worst violations - torture, forced displacement, mass murder - are recognised as deeply serious crimes... there is a profound moral and legal foundation to our advocacy. That foundational piece is conspicuously missing in the environmental arena.

Recognising ecocide as an international crime has the potential to fill that gap, strengthening and shoring up existing laws addressing organized crime as well as civil regulation pertaining to environmental protection, while at the same time shifting norms to recognise the simple fact of humanity's dependence upon healthy ecosystems for our own survival.

An important milestone was reached last year, when an independent panel of legal experts from around the world, convened by our Foundation, reached consensus on a legal definition of "ecocide" as a proposed international crime⁴. The core text, released in June 2021, is concise and balanced: "ecocide means unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts."

This definition has gained significant political traction around the world, while the European Law Institute is working on a related EU-specific definition⁵ and ecocide is also being discussed in the context of revising the EU Environmental Crime directive⁶. Individual states, such as Belgium, are also considering recognition of ecocide (experts there have taken direct inspiration from the 2021 consensus definition for a proposed Belgian text⁷). Discussion of it is now on public record at parliamentary and/or government level in no fewer than 21 states which are parties to the Rome Statute of the International Criminal Court⁸.

Putting this kind of outer boundary framework in place also serves to accelerate strategic change in the right direction. We human beings are creatures of habit, and industrial practice tends not to change without a change in the rules, particularly when fiduciary duties lead corporate decision-makers to prioritize profit as a matter

⁴ <https://ecocidelaw.com/legal-definition-and-commentary-2021/>

⁵ <https://www.europeanlawinstitute.eu/projects-publications/current-projects/current-projects/ecocide/>

⁶ <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/improving-environmental-protection-through-criminal-law>

⁷ https://jt.larcier.be/publications/jt_2022-fr/jt_2022_18-fr/jt2022_18p297

⁸ <https://www.stopecocide.earth/leading-states>

of obligation. The correct criminal law parameters can act as a kind of creative constraint, provoking the urgent new thinking and innovation we already know is needed.

The global youth movement has made a clear demand for recognition of ecocide in its policy paper⁹ presented at last week's Stockholm+50 meeting. UNEP's Interfaith group has done the same¹⁰, and so have 57 laureates of the Right Livelihood Award¹¹ (known as the "Alternative Nobel Prize"). Encouragingly, the International Corporate Governance Network, an investor-led network of banks and financial firms responsible for over half the world's managed assets, has also explicitly recommended governments to "collaborate on criminalizing ecocide" in their statement¹² to COP26 in Glasgow.

Recognising ecocide as an international crime may prove to be a pivotal solution supporting many, many others in the context of the global triple crisis. While it is by no means a silver bullet for all our planetary woes, we suspect that without such a protective criminal law "outer boundary" in place, implementation of multilateral environmental agreements is likely to remain a steep uphill struggle.

We therefore respectfully encourage all National Focal Points to make provision for discussion of ecocide under Agenda item 4b (Priority Areas for Implementation) in this week's Montevideo Programme talks. This would acknowledge the necessity to engage in constructive dialogue in the UN context, which will soon prove essential, given the rapid acceleration of civil society demand and the growing number of states joining this crucially important conversation.

Thank you.



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⁹ https://www.youthstockholm50.global/_files/ugd/4658f6_826352d2e1de48c0b380e3f1a06bd982.pdf

¹⁰ <https://wedocs.unep.org/handle/20.500.11822/40048>

¹¹ <https://rightlivelihood.org/news/save-the-planet-protect-the-future-no-excuses-for-inaction/>

¹²

<https://static1.squarespace.com/static/5ca2608ab914493c64ef1f6d/t/6220bced48f46148800c6901/1646312686146/ICGN+Statement+on+COP+26.pdf>

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