



Ecocide Law  
Alliance

# Questions & Answers

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Q&A on Ecocide Law

# What is ecocide?

Ecocide is generally understood to mean mass damage and destruction of nature. The legal definition of ecocide proposed in June 2021 by a global panel of experts in international and environmental law as an amendment to the Rome Statute is: “... 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”.

‘Eco’ derives from the Greek oikos meaning house or home and ‘cide’ - from the Latin caedere meaning strike down, demolish, kill. It literally translates as “killing our home”.

“... 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”.

## ■ In what framework should ecocide as a crime sit?

The Rome Statute of the International Criminal Court (ICC) in The Hague is where the most serious crimes, of concern to the whole international community, are addressed. It has been in operation since 2002 and currently lists four crimes: genocide, crimes against humanity, war crimes, and the crime of aggression. The Statute can be amended to include a fifth crime: ecocide.

## ■ What counts as ecocide?

The expert panel proposes that ecocide be defined as:

“... 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”.

The expert drafting panel further detailed the legal definition as follows:

a. “Wanton” means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated;

impacts on human life or natural, cultural or economic resources;

- c. “Widespread” means damage which extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings;
- d. “Long-term” means damage which is irreversible or which cannot be redressed through natural recovery within a reasonable period of time;
- e. “Environment” means the earth, its biosphere, cryosphere, lithosphere, hydrosphere and atmosphere, as well as outer space.

b. “Severe” means damage which involves very serious adverse changes, disruption or harm to any element of the environment, including grave

### ■ Why should ecocide be an international crime?

Such a law is needed for many reasons.

The world today lacks an international law that clearly designates man-made mass destruction of planetary resources as a punishable crime. Several jurisdictions have weak legal frameworks to prevent systematic depletion of natural resources and others simply do not have the resources to ensure that their natural wealth is protected against the most harmful activities.

Criminalizing ecocide is a means of signaling that certain forms of behavior are so bad that the individual who engages in them will incur a criminal liability. It is a way of signaling that some things are so horrifying that if you decide to cause them, you will face sanctions anywhere in the world. Ecocide law is a powerful instrument for influencing behaviors and a tool to prevent and punish certain forms of short-sighted behavior.

### ■ Isn't ecocide covered under other laws?

There is some provision for environmental damage in law on war crimes and there may be some, as yet untested, potential to include some aspects of ecocide under crimes against humanity, but most ecosystem destruction happens in peacetime and does not always affect humans directly. Therefore, a law specifically addressing ecocide is needed.

Environmental crimes have recently been included in a number of national jurisdictions, i. e. Vietnam, Ecuador, Uzbekistan, France, Russia, Kazakhstan, Kyrgyz Republic, Tajikistan, Georgia, Belarus, Ukraine, Moldova, Armenia, Chile and Belgium. Laws have been proposed in Mexico, The Netherlands, Italy, Scotland, United Kingdom, Brazil and Spain.

In the spring of 2024, the European Union adopted a new environmental crime directive, which includes provision to criminalise cases 'comparable to ecocide'. EU member states have 24 months to implement the directive.

### ■ Why criminal law?

Criminal law has a strong relationship with our values and norms, society's sense of right and wrong. Making ecocide a crime creates a moral baseline whereby acts causing mass damage or destruction of natural ecosystems will become visible and thus unacceptable.

By criminalizing ecocide, we acknowledge the intrinsic value of ecosystems and our responsibility towards them.

### ■ What does the general public think about ecocide legislation?

The 2024 Global Commons Survey shows strong public support for ecocide legislation. IPSOS surveyed 22,000 people in the G20 countries, plus four additional countries: 7 out of 10 respondents are in favour of criminalizing the most severe crimes against nature. The survey also reveals deep-seated concern among citizens of the world's largest economies about the current state of our planet and the state of the planet we will leave for future generations. Among respondents, 59% are worried or extremely worried about the state of nature today.

Furthermore, 69% agree that, owing to human activities, Earth is nearing tipping points related to climate and nature.

### ■ What is in it for companies?

A number of things.

**Certainty** - A clear, fair, safe, and predictable legal framework is necessary for all businesses to thrive and also serves to protect investors, insurers, and shareholders.

**Level Playing Field** - Since businesses source and market raw material and products all over the world, international law is needed. International ecocide law protects vital ecosystems and sets boundaries for human activities, while leveling the playing field for sustainable business and contributing to fair competition.

**Innovation & Efficiency** - Those who act decisively, ensuring their business is taking a lead for the future, are likely to be more successful than those who lag behind.

**Employee engagement** - Making that ethical choice may also be a boost for your business, helping you recruit and retain the right talent. Increasingly, those who can pick and choose are opting to work for organizations driven by a purpose beyond profit.

**Ethics** - Standing up for ecocide law is an ethical choice. It shows a commitment to sustainable business that goes way beyond simply abiding by current regulations. Ecocide law is a powerful way to protect biodiversity and human rights.

### ■ What are we asking from companies?

The Ecocide Law Alliance is advocating for the implementation of ecocide as an international crime within the jurisdiction of the International Criminal Court in the Hague (the ICC), giving the law global reach. We ask businesses and business leaders to voice their support and become a supporting company of Ecocide Law Alliance.

### ■ Which countries would be covered by the law?

The ecocide amendment needs to be added to the Rome Statute, which is the governing document of the International Criminal Court. State Parties can then ratify the amendment and it will enter into force for those States Parties one year after their ratification.

From that date activities amounting to ecocide that take place on that state's territory or involving that state's nationals will be outlawed under international law.

### ■ What about countries who are not members of the ICC?

As the economy is increasingly global, there is a powerful effect even in countries that are not ICC members or that haven't ratified. Depending on how universal jurisdiction is applied in ratifying States Parties, non-nationals may be subject to prosecution for ecocide committed elsewhere. So even nationals of countries which are not States Parties (for example the US and China) could be affected.

- **Ecocide law addresses the causes of many environmental issues directly.**
- It will end the most extreme forms of environmental destruction.
- It will give business and government organizations a clear and long-term framework to act within.
- It will impact public views on right and wrong regarding mass damage and destruction of nature.
- It will support rapid transition to a green, circular economy by making reuse of materials a better option than extraction of new materials.
- It will reduce risks of armed conflicts related to ecological degradation, both within and between nation states.
- It will create more jobs, and jobs will be healthier.

#### ■ **Who will be prosecutable?**

Any person who provide essential contributions, by acts or decisions, to activities that most likely could inflict severe and either widespread or long-term damage to the environment could be subject to criminal prosecution. These persons may be public officials or officers of corporations or other bodies and most likely are they of senior rank.

The Rome Statute also includes secondary modes of liability. Aiding and abetting requires that an individual carries out acts or omissions for the purpose of facilitating the crime, that encourage or support the principal crime. The act of assistance must affect the crime, and the accomplice must intend their own underlying act to help or influence.

It remains to be seen how ecocide is implemented in the Rome Statute and how practice develops in the ICC and other courts that will try liability for ecocide.

The main purpose of ecocide law is not to prosecute offenders, but to stop ecocide from occurring in the first place.

#### ■ **How will the law be enforced?**

If a ratifying country has incorporated ecocide crime into domestic legislation, the crime may be prosecuted in national courts. If deemed more effective, a ratifying state can refer the matter to the Prosecutor of the International Criminal Court.

The International Criminal Court may exercise jurisdiction in a situation where a crime was committed by a State Party national, or in the territory of a State Party, or in a State that has accepted the jurisdiction of the International Criminal Court, or the crime was referred to the ICC Prosecutor by the United Nations Security Council.

### ■ Is ecocide as an international crime a new idea?

No. The term 'ecocide' has been discussed since the 1970s as a potential international crime against peace. It was first recorded at the Conference on War and National Responsibility in Washington in February 1970. The crime of ecocide was mentioned by Swedish Prime Minister Olof Palme in 1972, at the first UN conference on the environment, in commenting on the environmental damages caused by the use of Agent Orange by United States forces in the Vietnam War. From the 1970s onwards, many academics and legal scholars argued for the criminalization of ecocide and debated the elements required for such an international crime.

### ■ What is the connection between genocide and ecocide?

Genocide is a crime that protects the human right to life and ecocide is a crime that protects the Earth and all inhabitants' right to life. Tragically, millions of people have lost their lives because of genocide. What is less well understood is that damage and destruction of nature (ecocide) brings not only death to ecosystems, biodiversity and species habitat, but is ultimately also a threat to human life. Large-scale destruction of nature causes large-scale death among humans.

### ■ What is the International Criminal Court?

The International Criminal Court (ICC) is a permanent institution established by Article 1 of the Rome Statute. It is based in The Hague in the Netherlands and can prosecute people for the crimes set out under Article 5 of the Rome Statute.

### ■ What is the connection between the International Criminal Court (ICC) and the UN?

The ICC is an independent institution but there are some links with the UN. For example, the UN Security Council can refer cases to the ICC, and when an amendment to the Rome Statute is proposed, it must in the first instance be notified to the UN Secretary General who then notifies the ICC member states.

### ■ What is the legal process for making ecocide an international crime?

Any State Party may propose an ecocide amendment to the Rome Statute, which is the governing document of the International Criminal Court. This amendment must be submitted at least three months before the General Assembly of the States Parties, held every December in The Hague, Netherlands.

In a formal submission to the ICC during the fall of 2024, Vanuatu, Fiji and Samoa have proposed that the ICC considers the addition of the crime of ecocide, alongside the existing crimes of genocide, crimes against humanity, war crimes and the crime of aggression. The proposal also has the official support of the Democratic Republic of Congo.

A simple majority at the General Assembly meeting enables the amendment to take into consideration. A Crime Review Conference is then likely to be convened.

With the agreement of 2/3 of member states (currently 83 out of 125) the amendment is adopted into the Statute and ratification and enforcement can proceed.

The amendment enters into force for those States Parties which have accepted the amendment one year after their ratification.

- **When can ecocide law come into effect?**

The proposal of an ecocide amendment of the Rome Statute is the key moment which makes it visible on the horizon, enabling change to begin. But before a single state even ratifies this amendment to international law, it will begin to change the entire global conversation.

- **Can the law be applied retroactively?**

No. It will apply to acts committed after the law is introduced.



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