

ERADICATING ECOCIDE

Ending the Era of Ecocide

FAQs on Ecocide Law

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What is Ecocide?

Ecocide is extensive damage to, and loss of ecosystems. It is happening on a mass scale, every day and it is getting worse. The legal definition of Ecocide is:

The extensive damage to, destruction of or loss of ecosystem(s) of a given territory, whether by human agency or by other causes, to such an extent that peaceful enjoyment by the inhabitants of that territory has been or will be severely diminished.

Why is this law needed?

Ecocide, the extensive destruction of ecosystems, is occurring today. For example:

- Large-scale land use change that causes the direct destruction of habitats – as is the case with deforestation in most tropical rainforests;
- Significant pollution whether deliberate or incidental – such as oil dumping and spills;
- Open cast mining where entire landscapes are removed – as is the case with oil sands and some coal and gold mining;

There is wide scientific agreement that the scale of these changes is not sustainable and that continued interference with the Earth system will have significant consequences. Humanity has stepped out of what has been called a 'safe operating space' and has exceeded at least three defined [planetary boundaries](http://www.stockholmresilience.org/research/researchnews/tippingtowardstheunknown/the-nineplanetaryboundaries.4.1fe8f33123572b59ab80007039.html). Read about planetary boundaries at:

<http://www.stockholmresilience.org/research/researchnews/tippingtowardstheunknown/the-nineplanetaryboundaries.4.1fe8f33123572b59ab80007039.html>

[The United Nation's Global Environmental Outlook 5 Report 2012](http://www.unep.org/geo/pdfs/geo5/GEO5_report_full_en.pdf) (GEO-5) summarises the anthropogenic impacts on the Earth System, reiterating that they are unprecedented in human history. We know that we cannot continue to impact ecosystems with impunity forever and for there to be no consequences. Read GEO-5 at:

http://www.unep.org/geo/pdfs/geo5/GEO5_report_full_en.pdf

What is the aim of Eradicating Ecocide?

To make Ecocide the fifth international Crime Against Peace, putting a stop to destructive business and opening the doors to the green economy.

What will a law of Ecocide do?

The law of Ecocide will enable sustainable development and the United Nations Environmental Program's vision for a Green Economy. It is an innovative approach that will create a paradigm shift in the global economy and offers the promise that significant change is possible. The law of Ecocide is a new method for achieving a prosperous future for all people because it goes to the core of the environmental issues that are proving so difficult to tackle:

- It is not a small idea that will have incremental benefits;
- It does not treat the symptoms.
- The Law of Ecocide addresses the causes of many environmental issues directly;
- It will end the most extreme forms of environmental destruction;
- It can be realistically achieved because no country has a veto and it initially requires support from only 81 countries.
- It is the missing fifth Crime Against Peace.

The law of Ecocide will work because it will eliminate from most global supply chains the products and services that cause the greatest environmental destruction and so make companies that promote truly renewable solutions significantly more profitable. These companies will experience growth and so will create millions of jobs around the world. This will

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be good for people, societies, governments and shareholders everywhere. What is needed is an end to Ecocide. Read the full Ecocide Act at:

<http://eradicatingecocide.com/get-involved/toolkit/>

What counts as ecocide?

Anything that causes extensive damage, destruction to or loss of ecosystems. Extensive can be either widespread, long lasting or severe. Existing laws of war help us here as well, and can be extended to peace-time activities. The 1977 United Nations Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques (ENMOD) specifies the terms 'widespread', 'long-lasting' and 'severe' as:

- (a) widespread: encompassing an area on the scale of several hundred square kilometers;
- (b) long-lasting: lasting for a period of months, or approximately a season;
- (c) severe: involving serious or significant disruption or harm to human life, natural and economic resources or other assets.

How could Ecocide be included as the fifth international Crime Against Peace?

Article 121 of the Rome Statute sets out how it can be amended. Any party to the Rome Statute may propose an amendment. At the moment there are 121 State parties. We just need 1 State Party to call for an amendment and then a further 81 Heads of State to agree for Ecocide to be made an international law. [Click here](http://www.icc-cpi.int/Menus/ASP/states+parties/) for current State Parties (<http://www.icc-cpi.int/Menus/ASP/states+parties/>)

Who will prosecute Ecocide?

Prosecutions will be in national courts. However the International Criminal Court will prosecute if a country is unwilling or unable to prosecute.

What is the International Criminal Court?

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

The International Criminal Court is flawed and prosecutions don't take place, doesn't this undermine the law of Ecocide?

There have been many prosecutions by the International Criminal Court. Just because Genocide is a crime doesn't mean that it does not exist today. Murder is a crime but it does not mean that all murderers are prosecuted and convicted. We do not have a perfect system in place. However, by making something a crime does three things. It acts to prevent, prohibit and restore the damage caused. A law of Ecocide won't stop all damage and destruction but it is a start.

If I want to encourage my country to ratify the Rome Statute what can I do?

Get in touch with the Coalition for the International Criminal Court they will be able to help you <http://www.iccnw.org/>

Is ecocide the same as genocide? Isn't it wrong to compare the two?

Both are crimes against peace. 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 such damage and destruction brings with it death to many millions of humans as well as destruction, loss or damage of many other species, ecosystems, biodiversity and species habitat.

There is a crucial difference between the two: whilst genocide is a crime of intent (the intent to kill humans), ecocide is a crime of consequence (there is often no intent).

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What do the terms in the legal definition of Ecocide mean?

Extensive damage: It is already an international crime during war time to cause widespread, long lasting and severe damage to the natural environment. This helps us with the interpretation of what counts as extensive damage or destruction. The 1977 United Nations Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques (ENMOD) explains what the terms 'widespread', 'long-lasting' and 'severe' mean:

1. *widespread*: encompassing an area on the scale of several hundred square kilometres;
2. *long-lasting*: lasting for a period of months, or approximately a season;
3. *severe*: involving serious or significant disruption or harm to human life, natural and economic resources or other assets.

Human agency: Ecocide caused by human agency essentially means we can identify who has caused the ecocide.

Ecocide caused by human agency is often a result of corporate activity. This includes the Athabasca tar sands, oil spills in the Niger Delta and extensive logging of the Amazon. Responsibility lies with the heads of these companies who make the decision to do business in a way which causes this type of ecocide.

The **extensive damage** to, destruction of or loss of ecosystem(s) of a given territory, whether by **human agency** or by **other causes**, to such an extent that **peaceful enjoyment** by the **inhabitants** of that territory has been or will be severely diminished.

Other Causes:

'Ecocide as a result of other causes' refers to ecocide which has not been caused by humans but is naturally occurring.

Examples include flooding, rising sea levels and tsunamis. They are essentially 'acts of God'.

Peaceful enjoyment:

The term 'peaceful enjoyment' is a well-used term in law. This term has its roots in the civil laws of nuisance. It applies to those who have rights over land or possessions. For example a corporation will have rights to use the land as it sees fit, within the law, even if this causes ecocide and disturbs other inhabitants of the land. The law of ecocide would impose the corresponding responsibility on a corporation to ensure that the inhabitants' right to peaceful enjoyment is not breached.

Inhabitants:

'Inhabitants' refers to all beings, not just humans. Sometimes ecocides occur without affecting humans, but they may have a huge impact on the ecosystem. This allows a case to be brought to court on behalf of other inhabitants when they are affected by ecocide.

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What is Ecocide caused by *human agency*?

This means ecocide caused by people. The law aims to prevent this type of ecocide occurring in the first place. It will hold those who are *in a position of superior responsibility* criminally liable if they commit ecocide, for example the:

- head of a company who allows their business to commit ecocide;
- head of state who allows policy to prioritise business giving rise to ecocide;
- head of a bank who allows investment to fund business giving rise to ecocide.

Ecocide is a crime of strict liability meaning that intent to commit the act need not be proven for a person to be charged with committing ecocide. Most heads of corporations do not intentionally commit ecocide; it is simply a consequence of their destructive business practices.

A law of ecocide acts as a preventative 'think before you act' mechanism to put a stop to business practices giving rise to ecocide. It has huge potential to [trigger the transformation to the green economy](#).

Heads of corporations are unlikely to continue business which is giving rise to ecocide if they could potentially be held personally liable for this and face criminal prosecution. If ecocide is illegal, shareholders won't invest in criminal activity, and banks won't loan if they could face criminal prosecution for funding ecocide. It will actually make business sense to invest in green business. Investment and subsidies will be redirected to cleaner energies and create green jobs. When we put a stop at source to ecocides such as the Athabasca tar sands oil extraction and the logging of the Amazon, projects which are destroying our carbon sinks and causing escalating greenhouse gas emissions, this has a knock on effect and will help prevent runaway climate change.

What is Ecocide as a result of *other causes*?

A law of ecocide imposes a duty on all states to provide assistance to those facing naturally occurring ecocides, or ecocide as a result of other causes. It forces governments to open a dialogue and talk about what how to assist those facing rising sea levels and flooding.

Article 73 in the Charter of the United Nations sets out the Sacred Trust of Civilization. The Sacred Trust of Civilization highlights that the number one responsibility for members of the UN is to ensure the well being of people and the planet.

Charter of the United Nations, Article 73

Members of the UN... recognise that the interests of the inhabitants are paramount, and accept as a sacred trust the obligation to promote to the utmost... the well-being of the inhabitants of these territories...

One of the founding pillars of the UN is the International Trusteeship System, to help territories in need of assistance.

Charter of the United Nations, Article 75

The UN shall establish ...an international trusteeship system for the administration and supervision of trust territories.

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By making ecocide a crime, territories that are at risk of naturally occurring ecocide (ecocide as a result of 'other causes'), or have been damaged by ecocide, could apply to the Trusteeship Council for remedy.

Can climate change deniers be prosecuted?

No. Ecocide is a proposal for an international law premised on fact, not opinion. Ecocide could not be used to prosecute climate change deniers.

Would people found guilty of Ecocide be put in prison?

It depends on the judge and the severity of the damage or destruction caused. We advocate that restorative justice is a practical solution to be used alongside traditional sentencing.

Restorative justice can be a diversion from criminal prosecution in the case of low-level offences. However, for more serious crimes, including the crime of Ecocide, it is highly unlikely that it would ever act as an alternative to a criminal sentence.

The Judge may however, take into account the restorative justice process when sentencing the offenders.

Read the sentencing guidelines at: <http://eradicatingecocide.com/get-involved/toolkit/>

What is restorative justice?

Restorative justice is a process which brings victims and offenders into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward.

It gives victims the chance to tell offenders the real impact of their crime, to get answers to their questions, and an apology. It lets offenders understand the real impact of what they've done, to take responsibility and make amends. Restorative justice holds offenders to account for what they have done, personally and directly, and helps victims to get on with their lives. Rather than focusing on punishment, three important principles that underpin this approach are the need for restoration, the need to make amends and the concept of 'healing'. In this way, we can change the problem into the solution.

Read more about restorative justice at <http://eradicatingecocide.com/overview/restorative-justice/>

When does restorative justice happen?

Restorative justice may be offered to victims and offenders before a Judge passes sentence. If so the Judge will adjourn legal proceedings to allow for this to take place. In such a case the Judge may take the restorative justice outcome into account when deciding the sentence.

Restorative justice can also be used after sentencing, this may be in the course of a prison sentence or when offenders are about to be released.

What are the pre-conditions for restorative justice to take place?

Restorative justice is a voluntary process. A pre-condition to participating in any restorative justice process is that the offenders have accepted responsibility for their actions, and both the victims and offenders agree to participate.

Why use restorative justice?

Restorative justice is increasingly being used to address conflict, build understanding and strengthen relationships. In criminal justice it is being used for lesser crimes and often more serious crimes. It is not currently being used when crimes are committed by corporations.

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The aim behind creating an international crime of Ecocide is not to punish, but to change corporate behaviour. We want to end damaging and destructive practices and to open the floodgates to a clean and green economy. Just sending CEOs to jail for Ecocide is unlikely to change behaviour. When offenders are sent to jail they may never truly understand the effects their damaging behaviour has had on their victims. This fails to change behaviour and put an end to damaging practices.

Restorative justice is a healing process which allows for a dialogue to take place between the victims and offenders. Those found guilty of committing Ecocide are made aware of the adverse effects of their behaviour on others. This process may result in an agreement between the parties which will help restore the damage done. It may also prevent the CEOs from committing future Ecocide.

How is restorative justice enforced?

In a restorative justice hearing offenders may reach some form of agreement with the victims. The options as to what this agreement will be are wide ranging and it ultimately it depends on what the victims wish to be done, and what the offenders agree to do. The outcome can be enforced by making it part of a community sentence or a condition of a probation order.

Who decides whether a restorative justice sentencing is used?

Restorative justice may be given as an option to offenders and victims. It is a voluntary process and the Judge cannot order anyone to take part in this. If a restorative justice hearing is offered and accepted by both the offenders and the victims then the Judge may adjourn legal proceeding to allow for this.

The Judge will then take the outcome of the restorative justice hearing into account when sentencing the offenders.

Does a crime of Ecocide put nature's needs above people's needs?

No. Mass environmental destruction is as much a human rights issues as an environmental one. There are nine planetary boundaries which have kept the Earth System functioning in a way which supports life for the past 10,000 years, which if crossed will have devastating consequences for all life on Earth. We have crossed 3 and are rapidly moving towards crossing others. We are polluting our waters, our air, our food, which causes cancers and diseases. We are wiping out species which provide vital services to us as humans.

Our human right to life means nothing without a corresponding crime to deal with those who violate these rights. This is why we have the crime of murder, of genocide. But when we allow the destruction of the very Earth System on which we all rely, we ultimately are violating our right to life. A law of Ecocide places people and planet over and above profit.

Read more about [Ecocide and Human Rights](http://eradicatingecocide.com/overview/a-law-for-human-rights/) here at:

<http://eradicatingecocide.com/overview/a-law-for-human-rights/>

Is overpopulation the big problem causing ecocide?

It is not so much numbers of people that cause ecocide but the decisions of a very few people at the top that can lead to ecocide. In international crime, the principle of 'superior responsibility' takes those who are in a position of superior responsibility to task and imposes a duty of care on those few top people who make decisions that affect civilisation as a whole. This means that Heads of State, CEO's and Directors of companies and banks are the ones who have enormous power to determine what the rest of civilization does and it is those people who have the power to stop the ecocide.

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Is a crime of Ecocide anti-capitalist?

No. Profit per se is not a problem, but profit that leads to death or injury to life of people and planet cannot be justified. Read about [Ecocide and business](http://eradicatingecocide.com/overview/a-law-for-business/) at:
<http://eradicatingecocide.com/overview/a-law-for-business/>

Ecocide is pro-profit that does not cause mass damage and destruction. Currently the number one rule governing our world is that corporations must maximise profit to their shareholders, even if this means making profit out of mass damage and destruction to people and planet. There are certain things which are illegal for businesses to make profit from, things which are morally wrong, for example murder, genocide, corruption. It is a legal loophole that it is not illegal for businesses to make profit from mass destruction of the planet. This is not about saying no to profit or development, it is simply about changing the rules of the game to ensure truly sustainable business.

By making ecocide related activities criminal, business will be under enormous pressure to prevent such activity taking place. CEO's and directors of corporations will not wish to make decisions that will render them at risk of conviction, heads of banks will no longer want to sanction the funding of criminal activity and governments will not want to be seen to be making policy decisions which promotes such criminal activity. Innovation, finance and governmental support will by necessity flow in the other direction. It will make sense to invest in sustainable business. This is about corporations turning rapidly from being the problem to being a big part of the solution.

Wouldn't a crime of Ecocide damage economies and increase poverty?

A law of Ecocide will increase health and well-being for all beings. It will provide the legal governance which will act as a disruptor to the existing paradigm, by shifting companies from the "polluter pays" principles to "the polluter doesn't pollute." Ecocide law will in effect create a "think before you act" pre-emptive obligation. In so doing, the flow of money into damaging practices will be halted in its tracks. The green economy will have its floodgates opened and the flow of money will drive clean business investment and stimulate economies overnight. This is about development in the right direction.

Is Ecocide a climate change law?

We cannot prosecute corporations for causing climate change. However, climate change litigation is developing all the time. By putting a stop to manmade ecocide which is destroying our carbon sinks and giving rise to escalating carbon emissions, we can prevent runaway climate change at source. A crime of Ecocide will also impose a duty of care on all states to provide assistance to those facing naturally occurring ecocides such as climate change. This is something which so far the Climate negotiations have failed to do.

Why is Ecocide referred to as a Crime against Peace?

Damage, destruction or loss of ecosystems leads to resource depletion, which in turn leads to conflict and ultimately war. Sir David King, ex-chief scientific advisor to the UK government, warns of the 21st century being a century of resource wars, where we will be fighting for the last remaining resources, in particular water and oil. Some say that such wars have already happened.

In fact, during war-time, damage and destruction of the environment is taken very seriously. During war it is a crime to cause 'widespread long-term and severe damage to the natural environment...'. This crime has prevented the escalation of chemicals used for warfare, for instance. The prohibition of such damage should not be merely confined to war-time, but also to peace-time.

Read about [Ecocide and Peace](http://eradicatingecocide.com/overview/a-law-for-peace/) at:
<http://eradicatingecocide.com/overview/a-law-for-peace/>

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What are Earth Rights and why are they important?

Earth rights are the legal tools to protect the Earth. Many cultures have believed for centuries that the Earth has rights; this is a relatively new concept in the western world. We have somehow forgotten that the water we drink has the same right as we do to be free from pollution; the earth we walk on has the same right as we do to life; the air we breathe has the same right as we do to a clean and healthy environment.

Rights are only protected when there is a correlating crime to deal with those that violate those rights. Just as our human right to life is protected by the crime of murder and on a mass scale, the crime of genocide, so too does the Earth's Right to Life require the crime of ecocide. The two sit side by side. Rights in isolation do not ensure governance of breaches of responsibilities – the breach has to be named before it can be brought to justice. By giving mass damage destruction and loss of ecosystems legal definition we can close that door to this activity.

Read about [Earth Law](#) at:

<http://eradicatingecocide.com/overview/earth-law/>

Can this law work in practice?

A law of Ecocide can work. In 2011 a mock trial was held in the Supreme Court of England and Wales. Two fictional CEOs were put on trial for causing Ecocide due to destructive practices in Athabasca tar sands and found guilty. Leading human rights barrister, Michael Mansfield QC acted as the prosecution. This garnered international media coverage including the Financial Times, Le Monde, Time magazine, Deutsche Welle and Canada's CBC, and was broadcast worldwide online by Sky News. In 2012 the sentencing of the CEOs took place and restorative justice was used to ensure the damage caused was addressed. These events demonstrated that a crime of Ecocide can be a transformative law for sustainable business and can work in practice.

Isn't this a white man's law, indigenous rights still won't be recognised.

This is the Earth's law - to uphold the sacredness of all life, human, non-human and future generations.

It is international law which will give indigenous people the crime to make sure that when their lands are threatened they can take international action.

What is the point?

To remain silent when our land is being destroyed, when our water is being polluted, when our children and families become ill, is to ignore a law that would stop all of this. With each voice that speaks up for justice we build a sound so loud that it can no longer be ignored. This is a law which is important for anyone interested in law, business, or the future of our planet.

Why should I support this law?

Because you will be helping create a legacy for future generations - one that puts people and planet first.

What is the strategy for making Ecocide a crime?

Eradicating Ecocide has a two-pronged approach: 1. top-down, 2. bottom-up.

Top down: We are calling on leaders to champion the creation of Earth law. Polly has met with many parliamentarians, ambassadors, faith leaders and continues to meet with many more who can help. Polly has also met with many remarkable people and she is a channel for Earth law.

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Bottom up - is the grassroots engagement, empowering the voice of the people to speak up on behalf of the Earth.

Read more about our strategy at: <http://eradicatingecocide.com/about-us/strategy/>

What happened at Rio +20?

A report is available to read on what happened for us at Rio. Click [here](#) to read about what happened in Rio.

(<http://eradicatingecocide.com/wp-content/uploads/2012/06/Rio.report.16July.pdf>)

How long will it take to get Ecocide made a Crime against Peace?

This depends how long it takes to impose domestic legislation transposing the international crime. This can be done very quickly in an emergency situation, like the one we are facing now.

There will be a period of transition (5 years) when corporations will be given all the help they need to become the drivers for change and create the solutions for a green economy, and to help them thrive economically under the new legal and moral framework. We aim for all Ecocide to be ended by 2020.

Who's on the Eradicating Ecocide team?

Find out who's on the team here: <http://eradicatingecocide.com/about-us/our-team/>

We also have many volunteers and rely on the wider team:

<http://eradicatingecocide.com/supporters/the-wider-team/>

Who funds Eradicating Ecocide?

We are funded from donations from private charities/ foundations and individual donations. We are not government funded and are a completely independent organization.

What can I do to help?

You don't have to be a lawyer to get involved! Please gift your time, energy and money. All are equally valued. Please visit the get involved page to find out how you can help: <http://eradicatingecocide.com/get-involved/>

Please remember: we are not a big team. We are a few concerned people committed to making Earth law a driver to help unite people and planet. Thank you.

Has anything has yet been written on Ecocide particularly in the way of critical scholarly work?

Polly Higgins is an award winning author. Many academic institutions are using the books, "Eradicating Ecocide" and "Earth is our Business" as course books – law schools, environmental studies and business schools. Some are writing thesis and papers are being written for publication, some later this year. Please look at our press page and resources page.

Who supports the campaign?

Many people and organisations support the campaign including Nnimmo Bassey (Chair of Friends of the Earth International), Vandana Shiva (environmental activist), Pablo Solón (Bolivia's former chief climate change negotiator), Maude Barlow (former senior advisor on water to the UN General Assembly), Michael Mansfield QC (leading human rights lawyer), Judge Christopher Weeramantry (former vice-president of International Court of Justice), Kennedy Graham (New Zealand parliamentarian), Keith Taylor (Member of European Parliament), Jared Leto (musician/ actor/ activist), Francesca de Gasparis (Green Belt Movement), Jonathon Porritt (Forum for the Future). Please look at our supporters page: <http://eradicatingecocide.com/supporters/>