

NGO Statement to the 31st Session of the
Commission on Crime Prevention & Criminal Justice
Vienna, 16-20 May 2022

Strengthening the international legal framework and international cooperation in the context of crimes that affect the environment

“If crime crosses borders, so must law enforcement. If the rule of law is undermined not only in one country, but in many, then those who defend it cannot limit themselves to purely national means.”

Kofi Annan, foreword to the UN Convention against Transnational Organized Crime (2000).

In the context of crime prevention and criminal justice as they pertain to the environment, the international community faces two major challenges.

The first challenge relates to the urgent need to respond forcefully to the rapid rise in crimes affecting the environment. Eurojust,¹ the European Union Agency for Criminal Justice Cooperation, ranks environmental crime as the fourth largest criminal activity in the world - on a par with drug-trafficking. Most regrettably, law enforcement in this sector remains pitifully low and out of all proportion to the threat it poses. The reasons are manifold. The most significant factors are: (i) the failure of the criteria set out in the UN Convention against Transnational Organized Crime² to categorize numerous environmental crimes as 'serious'; and (ii) the inadequacy of training in the law enforcement agencies, whose staff frequently lack the all-essential investigation and prosecution capabilities.

The second challenge relates to the absence of legal provisions addressing the many and varied instances of severe widespread or long-term harm to the environment. All too frequently, the environmental damage caused is a deleterious side-effect of industrial practices which, though patently dangerous, are nonetheless permissible under law. Similarly, those outcomes represent all too common a breach of civil environmental regulations or are

¹ Eurojust, Report on Eurojust's Casework on Environmental Crime, January 2021

² UNCTOC Article 2 (b)

attributable to sheer negligence with regard to safety protocols. In many cases, the environmental damage qualifies as a transnational offence as set out in article 3.2 (a) (b) and (d) of the UN Convention against Transnational Organized Crime.

An offence is transnational in nature if:

(a) It is committed in more than one State;

(b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;

(d) It is committed in one State but has substantial effects in another State.

Both of the above challenges arise in the highly perturbing context of the critical global interlinkage between climate change, pollution and nature (biodiversity) loss. Furthermore, recent international reports³ tell us that these crises must be addressed with immediate urgency if we are to maintain the ability to support human civilization without severe, even irreversible loss and damage, mass migration and food crises.⁴

Moreover, the two challenges above relate both directly and causally to the current global crisis. The destruction or removal of carbon sinks and keystone species (e.g. via deforestation, poaching and trafficking), as well as severe soil, water and atmospheric pollution are all factors that inevitably exacerbate ecosystem collapse and climate change.

In the light of the foregoing, the imperative for the international community to strengthen the international legal framework and international cooperation in the field of crime prevention and criminal justice could not be clearer. Criminal law has a crucial role to play in drawing up and enforcing the legal and moral 'red lines' upon which the global population's very ability to thrive and survive in its planetary home may well depend.

What form should this strengthening of frameworks and cooperation take?

Recent meetings of this Commission have pointed in some useful directions, as indicated in the Chair's summary documents of November 2021 and February

³ IPCC WGII & WGIII, 2022

⁴ In the context of preparations for Stockholm+50 conference, there have even been references to the current mindset of humanity as "war on nature".

2022⁵. Themes that emerged from those meetings included: 'a robust legislative framework'; 'measuring the impact of crime prevention'; and 'treating environmental crimes as serious crimes.'

The *types* of cooperation suggested are noteworthy in that they involve both international and *cross-sector* cooperation. They include the need for: 'alternative sustainable livelihoods', 'the involvement of the private sector'; and 'consideration of a crime prevention and criminal justice perspective within the broader “nature agenda” ‘.

Public perception and understanding are acknowledged as key elements in the successful enactment of criminal law: impunity was mentioned as a factor that undermined trust and perception of security, while a number of speakers noted that a culture of integrity was of crucial importance to crime prevention.

Inclusion was also a recurrent theme. Emphasis was placed on the importance that ‘governments and the international community as a whole, including the UN, listen [to] and support youth voices and recommendations.’

In this context it is worth focusing on the consistent demand for the recognition of **ecocide** as a crime before **the International Criminal Court** that the young as well as citizens’ assemblies⁶ have voiced in recent years. Criminalizing ecocide would serve several purposes: to hold to account the leaders of criminal organisations and key decision-makers in government and industry alike; to remove impunity; and to deter dangerous practices that incur environmental damage, thus strengthening the efficacy of current civil regulations.

We note that an independent expert panel convened by the Stop Ecocide Foundation reached consensus on the legal definition of 'ecocide' in 2021⁷. The definition has since gained significant political traction around the world, while the European Law Institute, for its part, is moving ahead on a related EU-specific definition⁸.

⁵ see

https://www.unodc.org/unodc/en/commissions/CCPCJ/session/31_Session_2022/documentation.html

⁶ Citizens Climate Assembly, France 2020; Global Citizens Assembly, Glasgow 2022

⁷ see <https://ecocidelaw.com/legal-definition-and-commentary-2021/>

⁸ see <https://www.europeanlawinstitute.eu/projects-publications/current-projects/current-projects/ecocide/>

In the light of the foregoing, the undersigned non-governmental organizations in consultative relationship with the United Nations urge the participants in the 31st Session of the Commission on Crime Prevention and Criminal Justice, in particular the States Parties to the United Nations Convention against Transnational Organized Crime, to strengthen the international legal framework and international cooperation in the context of crimes that affect the environment. We call on Member States to:

- (a) *strengthen* the sanctioning of crimes incurring severe environmental effects, especially transborder effects, and treating them as 'serious' crimes as defined in the UN Convention against Transnational Organized Crime;
- (b) *encourage* international cooperation between law enforcement agencies so as to improve awareness-building and training related to investigation into and prosecution of transnational offences that affect the environment;
- (c) *encourage* consideration of criminal law frameworks in the context of the broader 'nature agenda';
- (d) *assess* current international legal frameworks in the context of the global 'triple crisis' and their impact on climate change, pollution and nature loss;
- (e) *acknowledge and support* the recommendations of civil society, in particular the voices of the young, with respect to the international legal framework in the context of the 'triple crisis';
- (f) *ensure* participation of local populations and stakeholders in the scope of the Aarhus Convention and Escazú Agreement;
- (g) *support* expansion of existing international legal frameworks for combating crimes affecting the environment, including hazardous legacies, abandoned sites and zones afflicted by war and other belligerent activities;
- (h) *recognize* 'ecocide' as a new international crime;
- (i) *enact* policies and enforce legislation with the highest integrity, as well as investigate and punish corruption with respect to crimes that affect the environment;
- (j) *encourage* consideration of the relationship between economic factors and environmental neglect, and its impact on criminal activities;

- (k) *secure* the support of the private sector by providing a reliable framework for combating the destruction of nature and the persistence of corruption, thus enabling those concerned to proceed without *incurring existential risks*;
- (l) *strengthen* communication with and cooperation between secretariats of the relevant UN agencies so as to sharpen the focus on crimes *affecting the environment*; and
- (m) *cooperate* with the relevant UN agencies in the implementation of reporting systems so as to facilitate assessment of the impact of crime prevention measures.

Submitted by: Socialist International Women

Endorsed by: