

# Summary of: Ecocide Law for an Economy within Planetary Boundaries

'Ecocide Law for an Economy within Planetary Boundaries' (issued January 2023) is a careful, detailed, and sobering analysis of the unsustainability of our current economic model and the need for a new heavyweight law to keep it within bounds. Put simply: our planet cannot accommodate a relentless linear economy. The economy is not independent of nature – rather, it is entirely dependent upon it.

On a crowded planet with failing ecosystems, allowing economic actors to try to out-compete each other whilst destroying the planetary life support systems is not an evolutionary success strategy. The effects of the climate crisis and the biodiversity crisis generated by our actions are already palpable across the globe. Our environment is daily threatened by severe destruction and deterioration, gravely endangering natural and human systems worldwide. Action is urgently required to refocus our world view towards promoting balanced and sustainable economic activity in harmony with nature.

The report takes a long hard look at the overwhelming volume of evidence on global risk: risk of climate action failure, extreme weather, biodiversity loss, social cohesion erosion, livelihood crises, infectious disease, human environmental damage, natural resource crises, debt crises and geoeconomic confrontation. The economic, environmental, geopolitical, and societal risks that we face are not isolated risks. They are interconnected because our economies, our societies and our lives are interconnected with nature. They are systemic risks. Unfortunately, they are

also risks that are amplifying in severity and accelerating in rate. Nature is hard to fence in and therefore hard to protect; it does not behave in a tidy linear way; and the risks to life and property that are associated with ecological degradation increase as population grows and there are more economic actors.

We cannot afford to go on ignoring what is before our eyes.

” To get the economy back within planetary boundaries, we need a safety rail.

There are thus potent economic, social, and moral arguments for creating a powerful new legal tool at a global level to effect such change by making 'ecocide' - in shorthand, mass destruction and damage to nature - an international crime.

A proposal currently exists and is rapidly gaining support to do just that: to initiate the process to add the 'missing fifth crime' of ecocide to the statute governing the International Criminal Court (the 'Rome Statute').

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The proposal defines ecocide 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'.

If the Rome Statute is amended in this way, ecocide would join genocide, crimes against humanity, war crimes and the crime of aggression as conduct that is outlawed by the international community.

Law reflects, expresses, and shapes society's world view, norms, and values. Whilst law is not a magic wand that can be waved to effect immediate and miraculous change, it does have great transformative value.

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Making ecocide a crime under international law will pay dividends at various levels. Its very presence as part of the international legal order will dissuade the grossest, most egregious, acts of environmental vandalism because such actions will incur the real risk of investigation and prosecution. It will create a level playing field internationally. Thus, in an interconnected world, businesses that wish to be socially responsible will not be at a commercial disadvantage compared to their amoral and irresponsible competitors. Individual states will modify their domestic law to reflect their international obligations, so that prosecutions for acts of ecocide also become possible at the national level. And benign pressure will be exerted to ensure that important economic decisions no longer treat the likely

environmental impact as an unimportant and un-costed externality.

Altering the legal parameters encourages rational and responsible economic actors to alter their behaviour. Including ecocide law as an additional crime under the Rome Statute will establish a legal framework and binding rules to contain human activities within the outer limits set by global ecological systems' carrying capacity. It will strengthen and complement existing international agreements (such as the Paris Agreement) and existing corporate law. By so doing, it will support the change that must imperatively take place away from a linear economic model and towards a circular regenerative economy.

The report reminds us that the natural world is the perfect circular economy where everything, even after its lifetime, becomes a source for something else. We need to imitate nature. We must look beyond the current take-make-waste extractive industrial model. Instead, we must gradually decouple economic activity from the consumption of finite resources. We must eliminate waste and pollution; circulate products and materials at their highest value (keeping them in use either as products or as components or raw materials); and shift our focus from extracting ever-scarcer resources to regenerating nature.

The Paris Agreement target is possible if we could merely become half as wasteful as we presently are. We 'just' need to change the rules. Making ecocide an international crime will help to align incentives with what is safe for people and for our planet. In so doing, it will give the economic system a much needed (and overdue) nudge in the right direction. ●

The author of this summary, Eleanor Sharpston KC, is a former advocate general at the Court of Justice of the European Union (2006-2020).