

Tackle environmental destruction! For a binding international environmental law architecture

Background

1. In the 1990's, the international community had to face the resurgence of tremendous violations of the human rights universally recognized in 1948: massive executions of prisoners, forced displacements, massacres on ethnic bases and genocide were committed in both former Yugoslavia and Rwanda. The United Nations first responded by creating two International Criminal Tribunals, one for each conflict. A few years later, in 1998, the founding Statute of a permanent International Criminal Court (ICC) was established in Rome by more than one hundred countries that put together all the existing humanitarian international treaties in one single text and signed it. The ICC, able to take action against any war crimes, crimes against humanity and genocides committed at any time in any of its State parties, became functional in July 2002.

2. These international criminal jurisdictions are based on the same moral principle: war crimes, crimes against humanity and genocides – in short, serious violations of human rights – affect human dignity so harshly that if they are committed somewhere on a single human being, all of humanity is concerned. That's why international law is at stake on these matters and prevails on national jurisdictions. That's also why some national justices, standing by their “universal jurisdiction” on international humanitarian law, can launch prosecutions on such crimes even when they occurred in other countries. This whole international criminal justice architecture is designed to fight against impunity and, thus, to prevent serious crimes to happen again.

3. In 2017, the global environmental situation has reached a critical point. In December 2015, 195 States gathered in Paris COP21 agreed to holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognising that this would significantly reduce the risks and impacts of climate change. This means dramatic reductions of greenhouse gas emissions worldwide as soon as possible: if not, the UN High Commission for Refugees states that up to 250 million people may be displaced due to climate change by 2050. Meanwhile, with species extinctions reaching more than 1 ‰ each year, there is growing international scientific concern that a sixth mass extinction of plants and animals has begun... These present two out of nine “planetary boundaries”, or nine thresholds on core environmental issues, beyond which human existence would be threatened. The concept has been introduced by a group of international scientists, led by Johan Rockström (Stockholm Resilience Centre) and Will Steffen (Australian National University), and comprises climate change, ocean acidification, ozone depletion, phosphorus and nitrogen cycles, biodiversity loss, land-system change, aerosol loading, freshwater consumption and chemical pollution¹. According to these scientists, four of the planetary boundaries have been crossed in January 2015 because of human activity since the industrial era.

¹ Rockström, J., W. Steffen, K. Noone, Å. Persson, F. S. Chapin, III, E. Lambin, T. M. Lenton, M. Scheffer, C. Folke, H. Schellnhuber, B. Nykvist, C. A. De Wit, T. Hughes, S. van der Leeuw, H. Rodhe, S. Sörlin, P. K. Snyder, R. Costanza, U. Svedin, M. Falkenmark, L. Karlberg, R. W. Corell, V. J. Fabry, J. Hansen, B. Walker, D. Liverman, K. Richardson, P. Crutzen, and J. Foley. 2009. Planetary boundaries: exploring the safe operating space for humanity. *Ecology and Society* 14(2): 32

4. The causes of this environmental disaster are well-known: in a global fast-growing economy, industries take more and more natural resources, and they dump more and more waste while most states fail to implement and enforce national and international environmental laws. Locally, industrial environmental degradation often leads to the death of an ecosystem in which life, vegetal, animal or human, can no longer develop. Globally, the increase of greenhouse gas emissions or loss of biodiversity somewhere has dramatic impacts on life elsewhere. The reality of atmospheric pollution, the global consequences of local environmental damages, invite to think that if one single community is affected the whole of humanity is concerned. For this reason, time may have come to reshape international environmental law on the model of international humanitarian law.

5. Throughout the world, initiatives that present systemic solutions to the degradation of the natural environment through an adaptation of public and criminal international law are multiplying. Whatever the approaches (Land Law, Rights of Nature, Rights of Future Generations, Human Right to a Healthy Environment, destruction of the environment internationally described as Crime of Ecocide), all are part of an innovative socio-ecosystematic perspective, according to which, human beings are an integral part of nature. This emergence and convergence of initiatives is the expression of a historical movement in favour of adapting international standards in the face of major environmental degradation.

6. However, taking into account the global climate situation requires a moral and legal responsibility that goes beyond the mere "declaration of intentions". Pollution and destruction of our environment, as well as the depletion of natural resources, are rapidly progressing and we are facing a great international legal vacuum to stop them: hundreds of international treaties on various parts of the environment exist, but they are built on a fragmented vision of nature and they lack binding legal force. By unifying these treaties under the logic of "planetary boundaries" and by giving them the highest international legal value, it is time to establish a legal landscape that would permit to try the perpetrators of the most serious environmental crimes and most of all to prevent such future crimes so as to safeguard humanity and nature.

7. The European Union has created a solid base for an ambitious environmental law. However, there is still a need to reinforce these rules considering the environmental emergency and the threat that some current governments and corporates represent to the international efforts made to protect the environment and fight against climate change. Nature needs a stronger protection within binding environmental law architecture.

Resolution

In this context, we, European Greens:

1. Recognize that current law and law enforcement at local, national, EU and international level fails to addressing responsibility for many kinds of environmental destructions.
2. Stress that some local environmental destructions have huge impact at the global level, putting in danger the entire planet as well as the respect of human rights.
3. Call for the environmental law, within which criminal law, to be strengthened to address responsibility for environmental destruction.
4. Considers that crimes against the environment should be punished at all levels, would they be committed intentionally or not.

5. In that regard and as a first step towards more stringent environmental law, ask for the EU and its member states to strengthen their laws against environmental crimes also internationally considered as “crimes of ecocide”.
6. Will develop a unifying and overarching Code of principles to bring coherence between all international environmental treaties (on oceans, coasts, forests, mountains, etc.) to create a binding and universal framework including “planetary boundaries”. We will foster this vision within the European Union and the United Nations as a basis for the creation of an International Environmental Court (IEC) in charge of the most serious violations of international environmental law. The IEC should depend directly on the UN and thus should be universal; its legal orders should be mandatory and should prevail on national jurisdictions. The IEC and its founding statute would be the core of a binding international environmental law architecture designed to punish and most of all to prevent further destruction of nature.

We European Greens for future policies will elaborate within the coming year a common position on:

1. The recognition of environmental destruction internationally described as crimes of ecocide with a starting definition being that of a serious and/or lasting harm to natural ecosystems and their biogeochemical cycles and / or to an ecological system vital to the Earth’s ecosystem as necessary to maintain the current condition of life; or other definition for the most serious environmental crimes including their link with human rights violations;
2. The architecture of jurisdictions that is needed to enforce a strengthened environmental law at all levels: universal jurisdiction for national tribunals, amending and strengthening the existing EU directive on the protection of the environment through criminal law, a possible European Court for Environment, the International Environmental Court or within the jurisdiction the International Criminal Court.