



The Pacific island of Vanuatu, along with Fiji and Samoa, has proposed formal recognition of the crime of ecocide. Photograph: Christopher Malili/The Guardian

International criminal court

Pacific islands submit court proposal for recognition of ecocide as a crime

Vanuatu, Fiji and Samoa want international criminal court to class environmental destruction as crime alongside genocide

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Three developing countries have taken the first steps towards transforming the world's response to climate breakdown and environmental destruction by making ecocide a punishable criminal offence.

In a submission to the international criminal court on Monday, they propose a change in the rules to recognise “ecocide” as a crime alongside genocide and war crimes.

If successful, the change could allow for the prosecution of individuals who have brought about environmental destruction, such as the heads of large polluting companies, or heads of state.

Vanuatu, Fiji and Samoa have proposed a formal recognition by the court of the crime of ecocide, 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 proposal was tabled before the ICC in New York on Monday afternoon, and will have to be discussed in full at a later date. Holding full discussions on the proposal is a process likely to take some years, and will face fierce opposition, though much of it will be behind the scenes as most countries will not wish to openly speak out against it.

Philippe Sands KC, a prominent international lawyer and professor of law at University College London, acted as a co-chair of the independent expert panel for the legal definition of ecocide, convened by the Stop Ecocide Foundation. He told the Guardian he was “100% certain” that ecocide would eventually be recognised by the court.

“The only question is when,” he said. “I was sceptical at first, but now I am a true believer. There has already been real change, as some countries have put it in domestic law. I think this is the right idea at the right time.”

Belgium recently adopted ecocide as a crime, and the EU has changed some of its guidance on international crime to include it as a “qualified” offence. Mexico is also considering such a law.



Vanuatu made the first call for the crime to be recognised by the ICC in 2019. Photograph: Christopher Malili/The Guardian

Jojo Mehta, a co-founder of the Stop Ecocide International campaigning group, which is an observer to the ICC, told the Guardian the move by the three Pacific islands marked a “key moment” in the fight to have ecocide recognised. “Once it’s on the timetable of the ICC, it has to be discussed,” she said. “Up to now, member states have not been obliged to address the issue.”

No countries have been willing to publicly say they oppose the adoption of ecocide as a crime, she said, but she expected resistance and heavy lobbying from high-polluting businesses, including oil companies whose executives could eventually be held liable if the offence were to be adopted.

Getting to the point where the ICC will consider the proposal has taken years. Stop Ecocide International has been campaigning on the issue since 2017, and Vanuatu made the first call for the crime to be recognised by the ICC in 2019.

Although it could take as long as a decade from now before anyone is charged with ecocide even if the changes were implemented by the ICC, the proposal tabled on Monday was vital to gaining broader acceptance of the concept, according to Mehta. “There has been growing progress, as people are increasingly aware of the threat of climate [breakdown],” she said. “People are saying that this much harm to the planet is just not acceptable.”

Sands said it was necessary to change the treaty that forms the foundation of the ICC, known as the Rome statute, to recognise ecocide. “You need a change to the statute, that’s fundamental,” he said. “The ICC can’t deal with this in a meaningful sense without that.”

Since its formation in 2002, the ICC, which sits in The Hague, has dealt with crimes of genocide, war crimes and crimes against humanity. In 2010, an amendment to the Rome statute expanded the list to allow crimes of aggression – the use of armed force by one state against another – to be included.

More than 120 countries, including the UK and the EU, are parties to the ICC. Its chief prosecutor, Karim Khan, recently called for the Israeli prime minister, Benjamin Netanyahu, to be arrested, and Vladimir Putin is also wanted to stand before the court.

However, the scope of the ICC is limited, as the US, China, India, Russia and other major emitters of greenhouse gases are not parties to it.