



Stopping the destruction of Mother Nature | The Stop Ecocide Campaign

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Introduction: Jojo Mehta co-founded the Stop Ecocide campaign in 2017, alongside UK lawyer the late Polly Higgins, to support the establishment of ecocide as a crime at the International Criminal Court (ICC). She co-ordinates between the fast-growing international campaign (teams in 8 countries, websites in 7 languages) and the lawyers, advocates and parliamentarians engaged in the core work of progressing the crime. She is a graduate of Oxford and London universities and has a background in communications, entrepreneurship and on-the-ground environmental campaigning.

Mette Mølgaard Henriksen (MMH): Before we talk about your campaign called “Stop Ecocide”, can you explain to us what the term “Ecocide” refers to?

Jojo Mehta (JM): Ecocide is broadly used to mean mass damage and destruction of ecosystems in the same way that, say, genocide might describe the destruction of people or homicide is destroying a person in the way of murder. So that's a very general definition I think is broadly used. We actually use a kind of working definition that also includes the fact that this would be widespread, severe or systematic or long term and committedly acknowledged of the risks as well.

MMH: The Stop Ecocide campaign was founded in 2017. Can you provide some background to this campaign and explain its purpose?

JM: The background is actually several years of working on this concept and publicising it and moving it forward on the part of Polly Higgins with whom I

began this campaign. And the idea was simply to answer the question, "how do we create a legal duty of care for the Earth?" And the conclusion that Polly came to was that the protective law that was needed was not in place and that criminal law creates that level of protection. So in the same way as you can have the right to life, but unless killing you is a crime, your right to life isn't protected. In the same way ecocide as a crime could act as a protective law for the natural systems on which we all depend. So that's the kind of overall purpose of it. And the birth of the campaign itself happens really as a result of us discovering over some years that normal foundation funding was not easily available, so actually moving this work forward at diplomatic level was difficult because it was seen as quite a sort of extreme solution, it was seen as a sort of high risk in terms of support. But what we realised is that when you talk to the grassroots at the grassroots level, people really profoundly understood that this was needed. So it was a question of bringing together my background in campaigning, Polly's in law and bringing this together as a public campaign so that we could raise some funds to actually keep this moving at the diplomatic level.

MMH: You're working towards making ecocide the fifth crime of the International Criminal Court. Can you explain how such a law would apply and provide us with examples?

JM: The international level of crime, and particularly the Rome Statute, which governs the current four international crimes, is aimed at people in positions of superior responsibility. So it's aimed at key decision makers. In the same way as with the crime of genocide, you're not aiming at the foot soldiers but at the people who are controlling the situation. The same would be true of ecocide, so it's really aimed at the top level. It's aimed at decision makers, for example, could be CEOs, could be financiers, could be government ministers, for example. And in terms of, who it's aimed at, I mean, one of the key reasons for approaching this at the international level and there are actually a number of reasons. One of them is that the key, the biggest polluters are transnational corporations and their supply chains. And essentially, in order to reach those particular actors, you need a law that works across borders because otherwise those corporations can simply move their operations or their activities between

jurisdictions according to what seems most favourable to them. So in order to create a kind of broad base of the possibility to prosecute in this context, it's important to enter the international level. But I think there's a couple of other reasons why that's very important, actually. One of them is simply the mechanism of the International Criminal Court, because it's the only global mechanism that directly accesses the criminal justice systems of its members. So it enables you to create a level of coherence, because if a country ratifies a crime there, it must also include it in its domestic legislation. So you can create a kind of coherence across borders, which again is very important in this instance. And also ultimately, although getting that in place potentially could take longer than passing a law in an individual jurisdiction, in the longer term, it's actually more efficient because you don't end up with a kind of peacemeal situation where there are possibly different definitions in different countries and so on. So as we see it, it's actually ultimately the most efficient route to creating a rule that applies across borders.

MMH: As ecocide is about destroying the environment, it is a by-product of our economic activities under capitalism and our consumerist society. Is it even possible to make it a law without changing our whole economic system?

JM: I think that the simple answer to that is, it isn't. But I think also the positive answer to that is that actually our system is already aware. I mean, the major actors in our system are deeply aware that sort of seismic, drastic changes need it. And not only that, but certainly in the corporate sustainability sphere, there are a lot of companies now that are starting to try to do the right thing. Even some of the worst actors are changing their narrative to at least make gestures towards the idea that they might be doing the right thing. They might have to move towards sustainability. So this is not something that's going to come as a surprise to anybody. And what is really most important in this, is that we don't try to make this happen immediately. I mean, obviously, we also don't want it to take too long. This decade is going to be decisive. And if we want to meet Paris targets, we want to meet sustainable development goals, some kind of parameter has to be put in place to help that happen. And for us, that's what an ecocide law does. It creates the kind of parameter, a kind of a guardrail to keep corporate practise to steer and within a safe operating space, but not to do it immediately

overnight. Because, I mean, this is another reason to enter at the international level, because if you bring in a law in a single jurisdiction, I mean, actually governments are quite reluctant to do that. And the one government that has recently done that, which is France, is finding it difficult and has had to water down the definition of ecocide quite a bit just in order to get it through. And there's an obvious reason for that is that you've got economic relationships and contracts in place and just suddenly criminalising people that you've been working with perfectly happily until now is actually a really difficult and chaotic thing to do. But if you're moving this forward at the international level, there are certain steps in the procedure that have to take place and those take time. And effectively, what you create with that is a kind of compliance period. So you know that you have to bring a lot of countries with you in order to move this forward. So there's a kind of safety in numbers factor, but also the fact that it will take a certain amount of time. I mean, we estimate possibly altogether, maybe around five years, which actually could change international law is remarkably fast. But let's say that is a period that it could take that actually starts to flag it up to the economic world, flags it up to the political world. Already, this conversation is growing very fast. And once a state or small group of states ideally is prepared to actually propose this amendment to the Rome Statute, which is the governing document for the International Criminal Court, once that proposal is there, this is on the horizon. And I think that when people really dig a little bit, they realise that something like this is going to have to come into play at some point. And in fact, insurance companies were saying to Polly Higgins some years ago, we know this is coming. It's just a question of when. So the fact that the conversation is growing fast, the fact that a state may be willing to put something like this on the table and propose it maybe even as early as next year, we'll see how this pans out. There's never a 100 percent guarantee with diplomatic work, but things have been moving quite fast. So yes, as soon as that comes onto the horizon, there's a really strong signal that goes to all sorts of points in that production chain. So the financiers, the insurers, I mean, the fact is, if something's a crime, you can't insure it, you can't insure a murder. I mean, you can't go to your government and get a permit for mass killing. Just, it's not possible, it's criminal. So when you've got this perspective of going beyond just environmental regulation, which is where actually most environmental law still sits, when you're going beyond that to actually criminal

law, you're actually looking at a complete change in the ground rules. So that's something that then will have to be adapted to over time. But as I say, not over too much time. We don't have too much time.

MMH: The ecocide movement is gaining traction worldwide. Can you provide us an overview of the international support for this campaign and also elaborate on the importance of having this issue on the agenda?

JM: Absolutely. So we have already six ICC member states that have a recorded interest in some way at the government level for taking this conversation into the state arena. And the first two of those were small island states, which, of course, are the shock end of the effects of climate change and so very clearly have an incentive to be looking at the root causes of that. And that was Vanuatu and the Maldives, who brought it up at the International Criminal Court at the end of 2019 and called for the member states to seriously discuss it. Then we have support from France, Emmanuel Macron, very concretely expressing his wish to champion this at the international level, particularly the international criminal courts, and moving on from France and also Belgium, which actually incorporated a pledge into its government programme to take diplomatic action around halting ecocide crime. And they have been the first European country to raise and tackle the International Criminal Court, which happened just a couple of months ago in December. The Finnish foreign minister has also expressed support, the Finnish foreign minister submitted a special video message to a side event on ecocide in December at the ICC. So that was a very concrete gesture. And then we also have support from Spain in the sense that their parliamentary foreign affairs committee voted very strongly to recommend to the Spanish government to also consider looking at ecocide legislation nationally and internationally. But that's just the beginning in a sense that I as you may know, we were convening a panel of top international criminal lawyers to draw up a legally robust definition of ecocide that could actually be used by interested states to propose at the International Criminal Court. And that is something that hasn't been done before. There have been working definitions, but this is the first time that this has been done in response actually to a request from parliamentarians, in this case from Sweden, parliamentarians from both of the ruling parties who contacted our foundation

and said, obviously you have the connections and you have allies with the expertise to do this. Are you able to show us a definition that we could consider that could be reviewed. That enabled us to pull together an extraordinarily talented and experienced legal panel to do this. And they're working on that definition over the next few months. So that will emerge in June. They plan to report back with a definition. Now, what that will enable us to do is to reach out to a much wider group of states potentially around the world and to consider this and take it forward and we already have interest from I think 11 other countries are already interested in seeing that definition when it emerges. So the conversation is really growing quite fast around this. And it'll be very interesting to see yet how that moves forward once the definition emerges, because I think that it will gather momentum again at that stage.

MMH: Recently, the French government was found guilty of climate inaction. What is this case about and why is it considered a 'historic victory'?

JM: Yes. So the case L'Affaire du Siècle, or the affair of the century, and it is supported by four different NGOs, including Greenpeace in France and also an NGO called Notre Affaire à Tous, which means it's all of our business, which is founded by one of our key associates in France and advisory board members, Valérie Cabanes, who campaigned very strongly in the Francophone countries for ecocide over many years. And this case was around climate and around what the government was doing to actually meet the targets that it has set itself. And it was essentially found wanting in its track record of actually taking action to meet the targets that it had set itself as one of the European members of the signers of the Paris Agreement. There are further developments still to happen in the case, but what has already been established is that, yes, France, the French government, has a responsibility to stick to these targets. Yes, it has failed to do so. And yes, it's potentially responsible for consequent ecological damage. And for that reason, it's a landmark ruling. It's not the first case where a government has been held to account for climate inaction. That happened both in Holland with the Urgenda case which first came to light in 2015 and had its final appeal upheld last year, I believe. But there was also a case in Ireland as well, where the government's climate policy was deemed inadequate and they were actually mandated to come up with something better. So, it's the third in a

sequence of what we imagine is going to be a lot more cases as well of governments being held directly to accounts by civil society actors in terms of their responsibility to their populations and to future generations. So it's a really important win. It's not finished yet, there will be more developments to the case but this initial victory is very important.

MMH: What do you think the world would look like if we had an ecocide law in place and it actually was considered a crime to destroy nature?

JM: That's a wonderful question. We see ecocide law as kind of a bridging piece, really from an old and dysfunctional system into one that actually operates in harmony with nature. So, of course, we're not under any illusion that this one rule will change everything but we also think that without it, it will be hard to change anything. So, it's kind of a sort of bridging piece because if you think about it, if you're campaigning for human rights or social justice, you've at least got the reassurance that mass murder is a crime. So you've got some kind of foundation against which to build. But at the moment in the environmental world, there isn't that really fundamental sort of red line that's being drawn. So you can still go to the government and ask for a permit for fracking. You can't go and ask for a permit for killing. So changing that really has the possibility to change the whole mindset of how we approach our economy, how we approach our infrastructure, how we approach the way we do things and how we relate to nature. So the idea really is to move from harm to harmony. And if you can put destruction of nature beneath that more red line so that it becomes unacceptable, then you also start to change the way that people conceive of themselves in relation to nature. Because at the moment our laws protect property or there're criminal laws around harm to people, but they don't make an equivalence, so we don't have this long history. Centuries and centuries of thinking of ourselves as separate to nature and dominating nature, certainly in the Western paradigm, which currently dominates globally. And it dominates because it's a philosophy of domination. It ends up dominating, you know, whereas actually if we look, for example, at the indigenous ways of life. And this is very important to do this in this context, because 80 percent of the world's biodiversity is managed by indigenous communities. And that's no coincidence. Yes, because they have a really strong, deep awareness of the value of nature and our relatedness to

nature. So there's something about criminalising destruction of nature that acknowledges something that those ancient ways of living acknowledge, as a matter of course, which is that if you damage Mother Earth, there are consequences. That's not something we decide in our heads. That's a fact, we're seeing it, it's around us all the time, in fact, in ever more apocalyptic ways. Acknowledging that and actually incorporating that as part of our legal system just gives a kind of a fulcrum or a shift that we believe can really enable a different approach to come into play so that all business activities will now have an additional bottom line. You know, how do I carry out my business without killing anybody already there. That is, how do I carry out my business without destroying ecosystems? And actually, when you start asking that question, it becomes what I hope and what we at Stop Ecocide is going to be a welcome challenge. We need to move the world to a different place. How do we operate with this new parameter in place? And I think we'll start to see some really, really huge changes and really positive ones.

MMH: Jojo, thank you so much for your time.

JM: Thank you so much. It's been a pleasure.

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