



University of
Nottingham
UK | CHINA | MALAYSIA



WashU Law

Whitney R. Harris
World Law Institute



INTERNATIONAL LAW ASSOCIATION
AMERICAN BRANCH
EST. 1922

ENVIRONMENTAL DESTRUCTION

ABILA STUDY GROUP **CRIMES AGAINST HUMANITY**

OCTOBER 20, 2025



Chair: Leila Nadya Sadat

Drafting Committee: Olympia Bekou (Chair), Sara Ciucci, Christopher Lentz, Leila Nadya Sadat

Environmental Destruction Subgroup: Michael J. Kelly (Co-Chair), Christopher Lentz (Co-Chair), Mina Nur Basmaci, David Donat Cattin

Study Group Members

Kelly Adams	Ryan Liss
Diane Marie Amann	Megan Manion
Mina Nur Basmaci	Craig Martin
Olympia Bekou	Valerie Oosterveld
Todd Buchwald	Diane Orentlicher
Sara Ciucci	Iulia Padeanu Mellon
Tom Dannenbaum	Ishita Petkar
John Devaney	Akila Radhakrishnan
David Donat Cattin	Christine Ryan
Hannah Garry	Susana SáCouto
Jocelyn Getgen Kestenbaum	Leila Nadya Sadat
Tess Graham	Michael Scharf
Sasha Greenawalt	Patricia Viseur Sellers
Christopher “Kip” Hale	Grant Shubin
Christina Hioureas	David Sloss
Diem Huong Ho	Milena Sterio
Larry Johnson	Hannah Sweeney
Michael J. Kelly	Alyssa T. Yamamoto
Christopher Lentz	

Study Group Advisors

Richard Goldstone
William Schabas

All members and advisors contributed voluntarily
and in their personal capacities

ENVIRONMENTAL DESTRUCTION AS A CRIME AGAINST HUMANITY

Proposed Revised Text for Article 2 of the Draft Articles on the Prevention and Punishment of Crimes against Humanity [ILC Draft]

Article 2 Definition of crimes against humanity

1. For the purposes of the present draft articles, “crimes against humanity” means any of the following acts committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

[...]

(k) widespread, long-lasting, or severe destruction of the environment, including biodiversity, natural resources, agricultural production, or landscape, as a means of harming any civilian population;

Explanatory Notes

This proposal is intended to strengthen environmental protection within the framework of international law, consistent with efforts at the International Criminal Court to integrate environmental crimes as chargeable offenses.¹ It builds upon the 2022 Resolution of the General Assembly which recognized “the right to a clean, healthy and sustainable environment as a human right”, and acknowledged that the consequences of environmental damage “are felt most acutely by women and girls and those segments of the population that are already in vulnerable situations”.²

This proposal advances the text put forward by the IUCN World Commission on Environmental Law,³ and seeks to give voice to the call by Burkina Faso, Cameroon, Côte

¹ ICC Statement, ‘ICC Office of the Prosecutor Launches Second Public Consultation on a Policy Initiative to Advance Accountability for Environmental Crimes under the Rome Statute’ (18 December 2024) <<https://www.icc-cpi.int/news/icc-office-prosecutor-launches-second-public-consultation-policy-initiative-advance>>.

² UNGA Res 76/300 (28 July 2022) UN Doc A/RES/76/300, 2 and para 1 (this resolution passed by a vote of 161 in favor, 0 against, and 8 abstentions).

³ International Union for Conservation of Nature (IUCN), World Commission on Environmental Law (WCEL), ‘Proposed Addition to Article 2 of the Draft Articles on the Prevention and Punishment of Crimes against Humanity: “Widespread, Long-lasting, or Severe Destruction of the Natural Environment as the Means of Destruction, Damage, or Injury to any Civilian Population”’ (14 May 2024) <https://iucn.org/sites/default/files/2024-09/iucn-wcel-cah-convention-art.-2-environmental-destruction_0.pdf>.

d'Ivoire, Eritrea, Ethiopia, Morocco, Niger, Nigeria, the Philippines, Sierra Leone, and Togo to consider adding an environmental crime to Draft Article 2.⁴

1. While environmental destruction could potentially be charged under Draft Article 2 as an “other inhumane act”, its inclusion as a distinct punishable act is warranted by the increasing likelihood of environmental harm targeting civilians, as well as the need to safeguard the environment for both present and future generations.
2. The proposed addition adapts the definition proscribing environmental destruction in the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD), which features a diverse cross-section of 78 parties.⁵ In this respect, the qualitative elements, “widespread, long-lasting, or severe,” are definitionally anchored in ENMOD.⁶
3. The demonstrative examples are definitionally rooted in widely ratified international legal instruments:
(a) “biodiversity” from the Convention on Biological Diversity;⁷

⁴ UNGA Sixth Committee (78th Session) ‘Summary Record of the 10th Meeting’ (12 October 2023) UN Doc A/C.6/78/SR.10, paras 76 (Cameroon), 83 (Burkina Faso), 103 (Eritrea); UNGA Sixth Committee (78th Session) ‘Summary Record of the 11th Meeting’ (12 October 2023) UN Doc A/C.6/78/SR.11, para 74 (Sierra Leone); UNGA Sixth Committee (78th Session) ‘Summary Record of the 41st Meeting’ (2 April 2024) UN Doc A/C.6/78/SR.41, paras 30 (Eritrea), 35 (Ethiopia), 46 (Morocco); UNGA Sixth Committee (79th Session) ‘8th Meeting’ (9 October 2024) <<https://webtv.un.org/en/asset/k1y/k1yi0hpcye>> (Philippines 2:09:34-2:10:19); UNGA Sixth Committee (79th Session) ‘9th Meeting’ (10 October 2024) <<https://webtv.un.org/en/asset/k1a/k1al9u453w>> (Nigeria 2:31:28-2:32:48); UNGA Sixth Committee (79th Session) ‘10th Meeting’ (10 October 2024) <<https://webtv.un.org/en/asset/k10/k1039hd3hb>> (Togo 10:06-10:29), (Niger 2:44:24-2:45:07).

⁵ Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (adopted 10 December 1976, entered into force 5 October 1978) 1108 UNTS 151. Afghanistan, Algeria, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Cabo Verde, Cameroon, Canada, Chile, China, Costa Rica, Cuba, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Denmark, Dominica, Egypt, Estonia, Finland, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, India, Ireland, Italy, Japan, Kazakhstan, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Lithuania, Malawi, Mauritius, Mongolia, Netherlands, New Zealand, Nicaragua, Niger, Norway, Pakistan, Panama, Papua New Guinea, Poland, Republic of Korea, Romania, Russian Federation, Sao Tome and Principe, Slovakia, Slovenia, Solomon Islands, Spain, Sri Lanka, St. Lucia, St. Vincent and the Grenadines, State of Palestine, Sweden, Switzerland, Tajikistan, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Uzbekistan, Viet Nam, and Yemen.

⁶ The Understandings underlying the ENMOD indicate that “widespread” is to be interpreted as “encompassing an area on the scale of several hundred square kilometres”, “long-lasting” as “lasting for a period of months, or approximately a season”, and “severe” as “involving serious or significant disruption or harm to human life, natural and economic resources or other assets”. UN ‘Report of the Conference of the Committee on Disarmament’ (1976) Vol 1, UN Doc A/31/27[Vol.I](Supp), 91.

⁷ Convention on Biological Diversity (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 79 (196 parties) art 2 (“*Biological diversity*’ means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part: this includes diversity within species, between species and of ecosystems.”).

- (b) “natural resources” from the African Convention on the Conservation of Nature and Natural Resources;⁸
- (c) “agricultural production” from the Treaty on the Functioning of the European Union;⁹ and
- (d) “landscape” from the Council of Europe Landscape Convention.¹⁰

4. These examples, referenced above, represent environmental aspects that are already recognized, either in whole or in part, as forming part of the common or the natural heritage of humankind.¹¹ While international consciousness began coalescing around the necessity of environmental protection in the 1960s, and international consensus began to build legal structures to do so in the subsequent decades, it is only now that recognizing environmental destruction as a crime against humanity has come into its own. The Convention on the Prevention and Punishment of Crimes Against Humanity must reflect this broader international effort. Failing to do so would miss a rare opportunity, the context and timing of which is perfect, to maximize the foresight and impact of this treaty for the benefit of present and future generations.

⁸ Revised African Convention on the Conservation of Nature and Natural Resources (adopted 11 July 2003, entered into force 23 July 2016) (33 parties) art V(1) (“‘Natural Resources’ means renewable resources, tangible and non tangible, including soil, water, flora and fauna and non renewable resources.”).

⁹ Treaty on the Functioning of the European Union (adopted 13 December 2007, entered into force 1 December 2009) (27 parties) art 38(1) (“‘Agricultural products’ means the products of the soil, of stockfarming and of fisheries and products of first-stage processing directly related to these products.”).

¹⁰ Council of Europe Landscape Convention, European Treaty Series No 176 (adopted 20 October 2000, entered into force 1 March 2004) (41 parties) art 1(a) (“‘Landscape’ means an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors.”).

¹¹ Convention Concerning the Protection of the World Cultural and Natural Heritage (adopted 16 November 1972, entered into force 17 December 1975) 1037 UNTS 151 (196 parties) art 2 (“‘natural heritage’ is comprised of ‘natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view; geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation; natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.’”). See also United Nations Convention on the Law of the Sea, (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3, 1834 UNTS 3, 1835 UNTS 3 (170 parties), art 136 (“The [sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction] and its resources are the common heritage of mankind.”).