

By Gar Smith

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“What does it matter to us? Look away if it makes you sick.”

— Heinrich Himmler, in response to outrage about Auschwitz

That quote appeared at the top of an article in the Summer 1997 Earth Island Journal. The essay, which raised the question: “How Do We Handle Industrial Evil?” was prompted by Congressional hearings that revealed how the tobacco industry, despite decades of denial, had long known that cigarettes caused cancer. The government offered Big Tobacco a deal: Cough up \$368 billion, stop advertising, and finance anti-smoking programs. In exchange: immunity from all future lawsuits.

Was the sentence appropriate for a corporate holocaust that claims five million lives a year? “When individuals and corporations commit crimes of demonstrable evil,” the Journal asked, “by what standard should they be judged?”

One standard was established on May 3, 1947, at a Nuremberg Tribunal convened to consider the crimes of 24 officials of I.G. Farben, a powerful company accused of sponsoring mass murder at its notorious Auschwitz plant.

Sixty-three years later, former British barrister Polly Higgins has revived the debate over Corporate Evil with a proposal that asks the United Nations to recognize “ecocide” as a fifth “crime against peace” – one that could be prosecuted by the International Criminal Court alongside “genocide,” “war crimes,” “ethnic cleansing,” and “crimes against humanity.” (For more info, see www.thisisecocide.org.)

Higgins defines ecocide as: “the extensive destruction, damage to or loss of ecosystem(s) or a given territory, whether by human agency or by other causes, to such an extent that peaceful enjoyment by the inhabitants of that territory has been severely diminished.” (A UN report bolsters Higgins’s concern, estimating that 3,000 of the world’s largest companies have caused \$2.2 trillion in environmental damage.) Higgins’s definition is even broader than it first appears, since her definition of “inhabitants” includes plants and animals, as well as human populations.

Higgins cannot be easily dismissed. The Ecologist magazine has called her “One of the Top Ten Visionaries to Save the Planet,” and in 2008, she was invited to present her proposal for a Universal Declaration for Planetary Rights before the United Nations. (So far, only Bolivia has formally adopted the Declaration while neighboring Ecuador has enshrined the “Right of Nature” in its Constitution.)

Higgins’s concern was inspired by the damage wrought by extractive industries – mining, logging, oil drilling. “If you keep over-extracting from your capital asset,” Higgins reasons, “we’ll have very little left and we will go to war over ... the last of it.” London’s The Guardian reports that the proposal has won support from the UN and the European Commissions, and among climate scientists, environmental lawyers and international campaign groups.

Reaction from the pro-growth community has been predictably volatile. As one alarmed commentator on the conservative RedState.com saw it, the proposal was nothing less than an “activist’s war on private property, industrialization and the Free Market” that would impose “a restriction on our rights to personal wealth” and might even, God forbid, “prevent over-production and over-consumption.”

A real challenge with defining ecocide comes from trying to figure out what level of environmental destruction constitutes a “crime against peace.” Wesley J. Smith, a senior fellow at the conservative Discovery Institute, observes: “Equating resource extraction and/or pollution with genocide trivializes true evils such as the slaughter in Rwanda.” Genocide involves cold-blooded criminal intent while ecocide is typically a byproduct of greed and negligence. As UN University Senior Academic Officer Dr. Vesselin Popovski notes: “Nobody in the Soviet Union deliberately planned the Chernobyl disaster in the same way as Stalin planned the deportation of Chechens in 1944.”

Fair enough. But even when you can’t prove intent, you can show criminal negligence – and demand accountability. The destruction of the rainforest ecosystems of the Amazon and

Indonesia, the knowing destabilization of the world's climate system, and BP's massive pollution of the Gulf of Mexico should clearly meet the test of "ecocide." All of them, after all, have caused great conflict.

Higgins believes that holding company directors accountable under international law could halt the devastation of ecosystems in the pursuit of short-term profit. "I'm only just beginning to get to term with how enormous that change will be," she told The Guardian. If accepted by the UN Law Commission in January 2011, a two-thirds vote of the UN's 192 members will be needed for the proposal to pass. It could be an epic – and epochal – battle.

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