

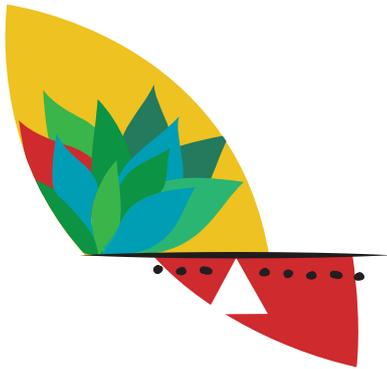


1st IUCN

World Environmental Law Congress

Congrès Mondial de Droit de l'Environnement | Congreso Mundial de Derecho Ambiental

RIO DE JANEIRO – APRIL 27th-29th, 2016



WORLD DECLARATION ON THE ENVIRONMENTAL RULE OF LAW¹

Outcome Document of the 1st IUCN World Environmental Law Congress

- **With the goal of building** the environmental rule of law as the legal foundation for environmental justice by extending the procedural and substantive principles and protections enshrined in the rule of law to the environmental arena at national, regional and international levels,
- **Emphasising** that humanity exists within nature and that all life depends on the integrity of the biosphere and the interdependence of ecological systems,
- **Deeply concerned** by the anthropogenic stresses on Earth now causing unprecedented global environmental degradation and depletion of natural resources, the loss of biodiversity and the transgression of planetary boundaries,
- **Recognising** the close relationship between human rights and environmental conservation and protection, and the fundamental importance of ecological integrity for achieving human well-being and tackling poverty,
- **Further recognising** the rich contribution of environmental law principles to the progressive development of legal and policy regimes for the conservation and sustainable use of nature at all governance levels, based on respect for human rights and fundamental freedoms for current and future generations,
- **Supporting** the evolution of such principles and encouraging the recognition of further principles and of innovative legal tools for effective compliance and enforcement mechanisms at all governance levels,
- **Acknowledging** the discretion exercised by states in investigations, prosecutions, and the allocation of enforcement resources in environmental matters,
- **Respecting** the importance of indigenous knowledge and cultures, and their contribution to equitable sustainability,
- **Recognising** that education, empowerment, and protection of women and girls is a fundamental prerequisite to eliminating poverty, achieving environmental sustainability and promoting sustainable development,
- **Recognising** the existing gaps and shortcomings that prevent environmental law from achieving adequate environmental conservation and protection, and addressing environmental crimes,
- **Observing** the essential role that judges and courts play in building the environmental rule of law through the effective application of laws at national, sub-national, regional and international levels, and through fair and independent decision-making that accord all parties equal consideration regardless of power or privilege,
- **And welcoming** the establishment of the Global Judicial Institute for the Environment

¹ This Declaration reflects the views of participants at the IUCN World Congress on Environmental Law. It does not represent a formally negotiated outcome and does not necessarily represent the views of any individual, institution or State; nor does it necessarily capture all the individual views or represent country or institutional positions, or consensus on all issues.

The participants at the 1st IUCN World Environmental Law Congress declare that:

Strengthening the rule of law in the environmental arena is critical to the achievement of environmental sustainability and sustainable development,

Without the environmental rule of law and the enforcement of legal rights and obligations, environmental governance, conservation and protection may be arbitrary, subjective, and unpredictable,

The environmental rule of law and robust institutions are essential to respond to increasing environmental pressures that threaten the ecological integrity of our planet, in a way that respects fundamental rights and principles of justice and fairness,

The environmental rule of law should thus serve as the legal foundation for achieving environmental justice, global ecological integrity and a sustainable future for all, including for future generations, at national, sub-national, regional and international levels.

II. THE FOUNDATIONS OF THE ENVIRONMENTAL RULE OF LAW

The environmental rule of law is understood as the application of the rule of law at local, national, regional and international levels in the environmental context. Strengthening the environmental rule of law is key to achieving the highest possible level of environmental conservation and protection.

The environmental rule of law is premised on key governance elements, including, but not limited to:

- a) The development, enactment and implementation of clear, strict, enforceable, and effective laws, regulations and policies that are efficiently administered through fair and inclusive processes to achieve the highest standards of environmental quality at national, sub-national, regional and international levels;
- b) Measures to ensure effective compliance with laws, regulations, and policies, including adequate criminal, civil and administrative enforcement actions, and mechanisms for timely, impartial and independent dispute resolution;
- c) Effective rules on access to information, public participation in decision-making and access to justice;
- d) Environmental auditing and reporting, together with other effective accountability, integrity and anti-corruption mechanisms.

III. GENERAL AND EMERGING SUBSTANTIVE PRINCIPLES FOR PROMOTING AND ACHIEVING ENVIRONMENTAL JUSTICE THROUGH THE ENVIRONMENTAL RULE OF LAW

Principle 1 Responsibility to Protect Nature

All people, states and private entities have a universal responsibility to care and promote the well-being of other species and ecosystems, regardless of their worth to humans, and to place limits on their use and exploitation. All life has the inherent right to exist.

Principle 2 Right to Nature

All people have a right to nature as the common heritage of humankind. Experiencing nature is vital to human mental and physical health and is a catalyst for appreciating the importance of protecting the environmental foundation on which human life and well-being depends.

Principle 3 In dubio pro natura

In cases of doubt, matters shall be resolved in a way most likely to favour the protection and conservation of the environment. Preference shall be given to alternatives that are least harmful to the environment. Actions shall not be undertaken when their potential adverse impacts on the environment are disproportionate or excessive in relation to the benefits derived therefrom.

Principle 4 Ecological sustainability and resilience

Legal and other measures shall be taken to protect and restore ecosystem integrity and to sustain and enhance the resilience of social-ecological systems. In the drafting of policies and legislation and in decision-making, the maintenance of a healthy biosphere for nature and humanity should be a primary consideration.

Principle 5 Intragenerational equity

There shall be a fair and equitable access to and sharing of the benefits of the environment. In the event of pollution of the environment, there shall be a fair and equitable sharing of the burdens of its elimination. Natural resources shall be managed so that they are used as economically as achievable, through high efficiency and avoidance of waste.

Principle 6 Intergenerational equity

The present generation must ensure that the health, diversity and productivity of the environment is maintained or restored to ensure equitable access to the benefits of the environment by each successive generation.

Principle 7 Gender equity

Gender equity shall be incorporated into all policies, decisions and practices in the environmental sphere, in recognition of the often-disproportionate impacts of environmental degradation on women and girls and their key role in achieving sustainability.

Principle 8 Participation of minority and vulnerable groups

The inclusion of minority and vulnerable groups and perspectives across generations shall be actively addressed with regard to access to information, open and inclusive participation in decision-making, and access to justice.

Principle 9 Indigenous and tribal peoples

Indigenous and tribal peoples' rights over and relationships with their traditional and/or customary lands and territories shall be respected, with their free, prior and informed consent being a key objective.

Principle 10 Non-regression

States, sub-national entities and regional integration organisations shall not pursue actions that have the net effect of diminishing the legal protection of the environment or of access to environmental justice.

Principle 11 Progression

States, sub-national entities and regional integration organisations shall progressively revise and enhance laws and policies related to environmental conservation and protection on a regular basis, based on the most recent scientific knowledge and policy developments.

V. MEANS OF IMPLEMENTATION OF THE ENVIRONMENTAL RULE OF LAW

Effective implementation is fundamental to achieving the environmental rule of law. Mechanisms to add procedural strength and help build the procedural and substantive components of the environmental rule of law at national, sub-national, regional and international levels include:

- a) Monitoring and reporting systems that enable accurate assessments of the state of the environment and the pressures on it,
- b) Anti-corruption measures, including of conduct and oversight,
- c) Legally supported environmental management systems that take due consideration of environmental risk and assess the vulnerability of social and economic systems in the face of ecological deterioration,
- d) Environmental assessment, incorporating multidimensional, polycentric perspectives and the complexity of social-ecological relationships,
- e) Quantitative and qualitative modelling and visioning tools that enable planning based on strategies and options that remain robust under multiple plausible futures,
- f) Collaborative and adaptive management and governance which involves stakeholders from a range of socio-economic and cultural backgrounds as well as traditionally marginalised groups, including local and indigenous peoples, women, and the poor,
- g) Coordination mechanisms such as regional enforcement networks, intelligence sharing and judicial cooperation,
- h) Environmental legal education and capacity building for all people, and especially for women, girls and traditional leaders and authorities of indigenous people, focusing on exchange of knowledge on best practices, taking into account the relevant legal, political, socio-economic, cultural and religious aspects, as well as recognizing common features founded on international norms and standards,
- i) Harnessing new technologies and media for promoting environmental law education and access to information,
- j) Complementary tools which draw on and respect customary laws and practice,
- k) Communication systems enabling the production and dissemination of guidelines, tool kits, checklists, and associated technical and legal implementation assistance,
- l) Strengthening civil society, environmental law associations and other non-state actors that fill gaps in state-based environmental governance systems,
- m) Linking environmental crimes to other crimes such as money laundering,
- n) Enabling public interest dispute resolution concerning environmental conservation and protection, and upholding the rights of future generations,
- o) Strengthening the capacity of the courts to act as guarantors of the environmental rule of law.

VI. APPEAL TO THE WORLD COMMUNITY

The participants urge States, sub-national governments, regional integration organisations and other relevant international organisations, legislators, civil society and the private sector to contribute to the building, maintenance, and promotion of the environmental rule of law based on the aforementioned principles as part of their shared responsibility to present as well as future generations.

Rio de Janeiro, Brazil, 29 April 2016.

