



World Commission
on Environmental Law

Commission Mondiale du Droit de l'Environnement | Comisión Mundial de Derecho Ambiental

IUCN World Declaration on the Environmental Rule of Law

The IUCN World Congress on Environmental Law, having met in Rio de Janeiro (Brazil) from 26 to 29 April 2016,

With the goal of building the environmental rule of law as the legal foundation for environmental justice,

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 the Earth now causing unprecedented transgression of planetary boundaries manifested by climate change, loss of biodiversity, depletion of natural resources, and other environmental degradation, all of which contribute to insecurity and conflict,

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 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 and empowerment of women and girls is a fundamental prerequisite to eliminating poverty, achieving environmental sustainability, and promoting sustainable development,

Further 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 accords all parties equal access and consideration regardless of power or privilege,

And welcoming the establishment of the Global Judicial Institute for the Environment, and its role in support of the application and enforcement of the environmental rule of law,

Declares that:

Strengthening the rule of law is critical to protecting environmental, social, and cultural values and to achieving ecologically 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 the Earth, 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 promoting environmental ethics and achieving environmental justice, global ecological integrity, and a sustainable future for all, including for future generations, at local, national, sub-national, regional, and international levels.

I. Foundations of the Environmental Rule of Law

The environmental rule of law is understood as the legal framework of procedural and substantive rights and obligations that incorporates the principles of ecologically sustainable development in the rule of law. Strengthening the environmental rule of law is the key to the protection, conservation, and restoration of environmental integrity. Without it, environmental governance and the enforcement of rights and obligations may be arbitrary, subjective, and unpredictable,

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

- a. 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;
- b. Respect for human rights, including the right to a safe, clean, healthy, and sustainable environment;
- c. Measures to ensure effective compliance with laws, regulations, and policies, including adequate criminal, civil, and administrative enforcement, liability for environmental damage, and mechanisms for timely, impartial, and independent dispute resolution;
- d. Effective rules on equal access to information, public participation in decision-making, and access to justice;

- e. Environmental auditing and reporting, together with other effective accountability, transparency, ethics, integrity and anti-corruption mechanisms; and
- f. Use of best-available scientific knowledge.

II. General and Emerging Substantive Principles for Promoting and Achieving Environmental Justice through the Environmental Rule of Law

Principle 1 Obligation to Protect Nature

Each State, public or private entity, and individual has the obligation to care for and promote the well-being of nature, regardless of its worth to humans, and to place limits on its use and exploitation.

Principle 2 Right to Nature and Rights of Nature

Each human and other living being has a right to the conservation, protection, and restoration of the health and integrity of ecosystems. Nature has the inherent right to exist, thrive, and evolve.

Principle 3 Right to Environment.

Each human, present and future, has the right to a safe, clean, healthy, and sustainable environment.

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 *In Dubio Pro Natura*

In cases of doubt, all matters before courts, administrative agencies, and other decision-makers shall be resolved in a way most likely to favour the protection and conservation of the environment, with preference to 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 6 Ecological Functions of Property

Any natural or legal person or group of people, in possession or control of land, water, or other resources, has the duty to maintain the essential ecological functions associated with those resources and refrain from activities that would impair such functions. Legal obligations to restore ecological conditions of land, water, or other resources are binding on all owners, occupiers, and users of a site, and liability is not terminated by the transfer of use or title to others.

Principle 7 Intragenerational Equity

There shall be a fair and equitable sharing of the benefits of nature, including appropriate access to ecosystem services. There shall be a fair and equitable sharing of efforts and burdens. Natural resources shall be used and managed in an ecologically sustainable manner.

Principle 8 Intergenerational Equity

The present generation must ensure that the health, diversity, ecological functions, and beauty of the environment are maintained or restored to provide equitable access to the benefits of the environment by each successive generation.

Principle 9 Gender Equality

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

Principle 10 Participation of Minority and Vulnerable Groups

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

Principle 11 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 to any activities on or affecting their land or resources being a key objective.

Principle 12 Non-regression

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

Principle 13 Progression

In order to achieve the progressive development and enforcement of the environmental rule of law, States, sub-national entities, and regional integration organisations shall regularly revise and enhance laws and policies in order to protect, conserve, restore, and ameliorate the environment, based on the most recent scientific knowledge and policy developments.

III. 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, *inter alia*,

- 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 those that address unethical conduct and oversight,
- c) Legally supported environmental management systems that take due consideration of environmental risk and 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 best-available science and environmental ethics, enabling strategies and options that remain robust under multiple plausible futures,
- f) Collaborative and adaptive management and governance that involves stakeholders from a range of socio-economic and cultural backgrounds, including local communities, indigenous peoples, women, the poor, and other traditionally marginalised and vulnerable groups,
- 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 of indigenous peoples, 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, as well as complementary tools that draw on and respect customary laws and practice,
- j) Communication systems enabling the production and dissemination of guidelines, tool kits, checklists, and associated technical and legal implementation assistance,
- k) Strengthening civil society, environmental law associations, and other non-state actors that fill gaps in state-based environmental governance systems,
- l) Addressing environmental crimes in the context of other types of crime such as money laundering, corruption, and organised crime,
- m) Enabling public interest dispute resolution concerning environmental conservation and protection and upholding the rights of future generations, and
- n) Strengthening the independence and capacity of courts in the effective application and interpretation of environmental law, and in acting as guarantors of the environmental rule of law.

IV. Appeal to the World Community

States, sub-national governments, regional integration organisations and other relevant international organisations, legislators, civil society, and the private sector are urged 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.

This Declaration was adopted at the IUCN 1st World Congress on Environmental Law, co-organised by the IUCN World Commission on Environmental Law, the United Nations Environment Programme, the Organization of American States, the International Association of Judges, and other key partners, in April 2016 in Rio de Janeiro, (Brazil). It was finalized by the Steering Committee of the IUCN World Commission on Environmental Law on 12 February, 2017. It does not represent a formally negotiated outcome and does not necessarily reflect the views of any individual, institution, State, or country represented at the Congress, or their institutional positions on all issues, and neither necessarily the views of any member of the WCEL Steering Committee.