

New UN Report finds Dramatic Growth Globally in Laws aimed at Protecting Environment, while Citing widespread Failure to Enforce as Greatest Environmental Threat

Widespread Resistance to Environmental Regulations Revealed; New Findings Follow Release of Bombshell Report from UN Climate Experts urging Rapid Action to Address Dangerous Lack of Progress on Climate Change

NAIROBI—, 24 January 2019 – The first ever global assessment of environmental rule of law finds weak enforcement to be a global trend that is exacerbating environmental threats, despite prolific growth in environmental laws and agencies worldwide over the last four decades.

[The UN Environment report](#) found that despite a 38-fold increase in environmental laws put in place since 1972, failure to fully implement and enforce these laws is one of the greatest challenges to mitigating climate change, reducing pollution and preventing widespread species and habitat loss. While there are still gaps in many of the laws, the substantial growth of environmental laws has been dramatic. The report is being released as climate experts and political and economic leaders seek to address dire [findings](#) released in October by the United Nations' Intergovernmental Panel on Climate Change, which urged rapid action to transform the global economy at a speed and scale that has “no documented historic precedent.”

David Boyd, UN Special Rapporteur on Human Rights and the Environment said, "This compelling new report solves the mystery of why problems such as pollution, declining biodiversity and climate change persist despite the proliferation of environmental laws in recent decades. Unless the environmental rule of law is strengthened, even seemingly rigorous rules are destined to fail and the fundamental human right to a healthy environment will go unfulfilled."

The new report from UN Environment finds that while international aid did help scores of countries to enter into over 1,100 environmental agreements since 1972 and develop many environmental framework laws, neither aid, nor domestic budgeting, has led to the establishment of strong environmental agencies capable of effectively enforcing laws and regulations. The authors identify multiple factors contributing to poor enforcement of environmental rule of law, including poor coordination across government agencies, weak institutional capacity, lack of access to information, corruption and stifled civic engagement.

Joyce Msuya, Acting Executive Director of UN Environment said, “We have the machinery in the form of laws, regulations and agencies to govern our environment sustainably. Political will is now critical to making sure our laws work for the planet. This first global assessment on environmental rule of law highlights the work of those standing on the right side of history — and how many nations are stronger and safer as a result.”

The report details the many welcome developments in environmental law since 1972, including the adoption of a constitutional right to a healthy environment by 88 countries, with another 65 countries having enshrined environmental protection in their constitutions. In addition, over 350 environmental courts and tribunals have been established in over 50 countries, and more than 60 countries have at least some legal provisions for citizens' right to environmental information.

Carl Bruch, Director of International Programs at the Environmental Law Institute said, “The international community can do more. Too often donor support focuses on very specific areas of the environment, resulting in robust environmental programs in some areas, and no funding or attention to other areas. This patchwork approach can undermine environmental rule of law by not providing consistency in implementation and enforcement and by sending confusing messages to the regulated community and the public. As a result, many of these laws have yet to take root across society, and in most instances, the culture of environmental compliance is weak or non-existent.”

The report devotes significant attention to one particularly worrying trend: the growing resistance to environmental laws, which has been most evident in the harassment, arbitrary arrests threats, and killing of environmental defenders. Between 2002 and 2013, 908 people — including forest rangers, government inspectors, and local activists-were killed in 35 countries, and in 2017 alone, 197 environmental defenders were murdered.¹

“The criminalization and increasing attacks on environment defenders are clear violations of environmental rule of law and an affront to the rights, roles and contributions of indigenous peoples and civil society in protecting our environment. This report captures the prevailing lack of accountability, strong environmental governance and respect for human rights for the sustainability of our environment,” **said Joan Carling, indigenous rights activist and environmental defender from the Philippines.**

“This report will help us improve compliance with environmental law, which is essential to ensuring protection of constitutional and human rights. As a U.N. Messenger of Peace, Mr. DiCaprio particularly supports legal protection of environmental defenders, especially indigenous peoples. During 2016, more than 200 environmental defenders were killed in 24 countries, with intimidation and violence affecting many more; a significant number of these were indigenous peoples,” added **Terry Tamminen, President and CEO of the Leonardo DiCaprio Foundation.**

The effective engagement of an informed civil society results in better decision making by government, more responsible environmental actions by companies, and more effective environmental law. The provision of periodic reports on domestic environmental quality, including on air quality and water quality helps achieve these goals. Unfortunately, according to the Environmental Democracy Index, only 20 of 70 countries reviewed, or 28 percent, are ranked as “good” or “very good” in producing a regular, comprehensive, and current “State of the Environment” report. In India, Thailand, and Uganda, data on pollution stemming from industrial facilities can only be obtained through a personal contact.

Ironically, as norms and opportunities for civic engagement have increased, some States have introduced new restrictions on the activities of civil society which are impairing the ability of the public to speak up about environmental injustices. Efforts to restrict civil society are most evident in China, Russia, Turkey, Vietnam, and Cambodia, among others.

Other impediments to enforcing environmental laws include weak institutions, and poor coordination among institutions. For example, 14 organizations located in Zambia and Zimbabwe have a legal mandate to manage the water resources of Lake Kariba, the Zambezi River, and its tributaries.² And in Peru, 18 national institutions played a role in tracking timber chain-of-custody data until efforts were made to map out and coordinate their roles.³ Lead contamination of the drinking water for Flint, Michigan illustrates the fact that even if several institutions detect a problem, without coordination and clear accountability, action may not be taken to address the problem.

Providing training and education is essential to equip staff and institutions with the knowledge and skills required to enact and expand environmental rule of law. Many judges in Uganda for example, attended law school or took office before environmental laws were enacted. When environmental cases started to be filed, some judges were unfamiliar with the new laws and many cases languished without being heard. A national judicial education program allowed judges to become familiar with this new area of law. The peer-to-peer exchange with subject matter experts, as well as giving judges copies of Ugandan laws and decisions from sister courts, helped to significantly increase the number of environmental cases heard and decided.

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Governments best deliver services through strong institutions to build legitimacy in both the institutions and in rule of law. Namibia established a post-independence administrative body for managing fisheries and policies for long-term management. Namibia has since experienced a 15 percent decline in “overexploited and collapsed” fish stocks over six years because laws governing illegal fishing in its jurisdiction are backed-up by an enforcement system of onboard inspectors who cover 91.5 percent of seagoing vessels in the country’s waters.

Professor Edith Brown Weiss, University of Georgetown said, “Environmental Rule of Law is essential for keeping our planet habitable and for ensuring environmental justice for all. We need laws that are implemented, enforced, and effective, and we need to monitor and assess the results and the impact.”

The report also highlights four opportunities to strengthen environmental rule of law:

1. **Integrate with SDGs:** It is clear that many of the Sustainable Development Goals, even those that do not mention the environment explicitly, will only be met if there is substantial progress on environmental rule of law. This means that as countries and partners pursue the 2030 Agenda for Sustainable Development, they need to mainstream consideration of environmental rule of law into their programming.
2. **Engage diverse actors:** Experience has shown that **political will is perhaps the most important consideration determining whether environmental laws will be implemented and enforced.** The different organizations and individuals need to understand that in order to accomplish their particular goals there needs to be effective environmental rule of law.
3. **Regularly assess environmental rule of law:** Environmental rule of law continues to be a dynamic space, with ongoing innovations, learning, and development. A key opportunity to strengthen environmental rule of law is conducting a regular global assessment of the environmental rule of law. Such an assessment is critical for understanding trends, identifying innovations, and sharing learning about which approaches are most effective.
4. **Pilot test approaches:** Government staff are often cautious about being the first to approve a new type of environmental permit, to sign off on community registration of lands, or other measures that may be provided by the law. It is often easier to convince decision-makers and staff alike that a particular approach can work if it is already tested and proven.

The report highlights diverse examples of good practice, including many innovations from developing countries that often face the same challenges as developed countries but with fewer resources with which to address those challenges. The geographic range of these efforts and innovations reinforces two related key points of this report: **developing and advancing the environmental rule of law is a challenge for all countries; it is also a growing priority.** If the goals of the hundreds of national laws, regulations, and policies governing the environment around the world are to be met—including public health and welfare, robust economies, and peaceful societies—an overriding priority must be placed on strengthening the environmental rule of law.

Notes to Editors

To interview a range of experts on environmental law and environmental rights, including judges, academics, UN Special Rapporteurs and environmental defenders please contact: niamh.brannigan@un.org

Please find the [Environmental Rule of Law First Global Report](#).

Please find a [trello board](#) with gifs, graphs, data and images.

Interviews can be arranged in Spanish, Portuguese, French, German and English on request.

Key Data on Environmental Rule of Law

Costa Rica: Costa Rica is a nation heavily dependent on natural resources in a region that has often been ravaged by political strife. The country has increased life expectancy to more than 79 years, achieved 96 percent adult literacy, and built per capita income to almost US\$9,000 while setting and meeting ambitious environmental goals, including already having doubled its forest cover to over 50 percent and on track to be climate neutral by 2021.⁴

Brazil: Brazil's constitution tasks its public prosecutor's office, or "Ministério Público," with protecting the environment among other responsibilities. Throughout the 1990s and early 2000s, state prosecutors in the São Paulo state alone filed over 3,000 environmental lawsuits. While most federal prosecutors in the country actively work on environmental law, around 100 prosecutors across Brazil's 26 states specialize in the area.⁵

USA: U.S. states, which implement many U.S. federal environmental laws, also fell short in the report. While the federal government set a goal that states should inspect all major air permit holders every two years, in 2010 only 8 of the 50 states did so; and a similar goal for inspection of all major water permit holders was met by only 2 of 50 states.⁶

Europe: In 2017, a European Commission review of Member States' implementation of environmental law⁷ found that countries faced implementation gaps in waste management, nature and biodiversity, air quality, noise, and water quality and management. It found that Member States suffered from ineffective coordination among local, regional, and national authorities; lack of administrative capacity and financing; lack of knowledge and data; insufficient compliance assurance mechanisms; and lack of integration and policy coherence.⁸

Africa: In recent decades, a complex web of factors has led to land rushes and large-scale land acquisitions in Africa, Latin America, and Southeast Asia. In many instances, businesses and state bodies have obtained rights to large tracts of communities' traditional land and converted the land to large-scale agribusiness, mining, or timber operations. While the land acquisitions are often sanctioned by government licenses and statutes, in some cases they have been held to violate the human rights of the indigenous peoples who had lived on the land—rights that take preeminence over statutory arrangements. All but 3 of the 34 recent civil wars in Africa related to disputes over land.

Spain: Spain takes a similar approach to Brazil with its Environmental Prosecution Network, which was established in 2002 to enhance cooperation, efficiency, and expertise in environmental law among all levels of government. In its "European Union Action to Fight Environmental Crime" study,

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the European Union found that Spain's 10 percent increase in specialized environmental prosecutors since 2011 significantly contributed to its increased ability to enforce environmental law.⁹

Indonesia: A study of the impacts of social conflicts on the bottom line of palm oil companies in Indonesia found that the tangible costs of social conflict range from US\$ 70,000 to 2,500,000.¹⁰ The largest direct costs were lost income arising from disrupted plantation operations and staff time diverted from other tasks to address conflict. Tangible costs represent 51 to 88 percent of plantation operational costs, and 102 to 177 percent of investment costs on a per hectare per year basis. In addition, social conflicts had intangible or "hidden" costs that range from US\$ 600,000 to 9,000,000, representing expenditures or indirect losses associated with, for the purposes of this study, risk of: conflict recurrence or escalation; reputational loss; and risk of violence to property and people.

In Indonesia, the Program for Pollution Control, Evaluation, and Rating involves publicizing and engaging the public on companies' compliance with pollution discharge standards, which has led to a significant increase in compliance with pollution laws.¹¹

China: Significant legal reforms enacted between 2008 and 2018 have been a key component of reform efforts that go hand-in-hand with efforts to strengthen enforcement. Prior to this wave of reform, many Chinese environmental laws lacked developed procedural and implementation mechanisms¹² and the high-level China State Council noted that "Chinese environmental protection laws and regulations are not up to the task."¹³ The Organization for Economic Cooperation and Development identified several legal reforms as critical steps for improving environmental governance in China, including making local leaders more accountable to higher-level government officials, strengthening China's pollutant permitting system, and enhancing legal authorities for market-based instruments like pollutant trading.¹⁴ China subsequently enacted legislation and issued regulations addressing each of those issues, and has undertaken other legal reforms including expanding standing for public interest environmental litigation and revising penalty provisions to enhance deterrence of violations.¹⁵ At least in part due to these reforms, China is starting to turn the corner on pollution control, and recent statistics show significant pollution reductions.

Cambodia: Environmental rule of law is particularly challenging in countries affected by armed conflict. Cambodia adopted a constitutional mandate that the state protect the environment and natural resources, enacted environmental statutes, including environmental impact assessment requirements, and even created an environmental tribunal. But Cambodia's judicial and administrative systems had been decimated by war, and the country had very little capacity to translate these legal requirements into environmental actions and protections. In 2017, Cambodia ranked "poor" on the Resource Governance Index, placing 79th out of 89 countries and 14th out of 15 Asian countries. They are now focused on building the capacity of the country's officials and institutions to realize environmental rule of law in order to make the country's development of its vast natural resources sustainable.

About the Environmental Governance Programme at UN Environment

At UN Environment we work with countries to promote effective and inclusive environmental governance, underpinned by **policy and legislation**, and informed and empowered **institutions**. We

ground these efforts in the **rule of law**, by promoting a **rights-based-approach** to environmental management, and by strengthening capacities to enforce legislation and combat violations. We also foster **cohesive and coordinated global responses** to pressing environmental issues.

Learn more about our environmental governance work [here](#).

About the Environmental Rights Initiative

The Environmental Rights Initiative brings environmental protection nearer to the people by assisting state and non-state actors to Promote, Protect and Respect Environmental Rights. The Environmental Rights Initiative represents the next phase of UN Environment's work on human rights and the environment. It builds on the outcomes of its past projects and as well as key UN Environment Assembly and Human Rights Council resolutions.

Learn more: Environmental Rights Initiative Environmental Rights Initiative ([Our Partners](#), [Factsheet](#), [Concept Note](#), [Partnership Note](#))

[UN Environment's Defenders Policy](#)