

# THE UN, & THE JUDICIARY, WITH THE HELP OF OUR POLITICIANS, CONTINUE WITH PLANS TO EXPAND GLOBAL ENVIRONMENTAL LAW

Experts say democracy is frustrating attempts to introduce global controls.  
Do you agree? Or should the people have a democratic say?

## CHECK THE POLICIES OF YOUR PREFERRED POLITICAL PARTY!!

Following on from the [Rio+20 World Congress on Justice, Governance & Law for Environmental Sustainability in 2012](#), and the resulting [Rio+20 Declaration on Law](#), now the [IUCN/UNEP 2016 World Environmental Law Congress](#) has [just concluded](#). Members of [IUCN include the Australian government and state governments](#). A few of the many Australian members of the IUCN World Commission on Environmental Law include:

- **Christine Trenorden**

<https://theconversation.com/profiles/christine-trenorden-119283>

[https://www.ucl.ac.uk/australia/about\\_us/people/accordion-academic-staff/copy\\_of\\_christine-trenorden](https://www.ucl.ac.uk/australia/about_us/people/accordion-academic-staff/copy_of_christine-trenorden)

According to Christine Trenorden, in [Judicial Review and the Principles of Ecological Sustainable Development: Where are we Going](#), **ESD laws should be unchallengeable, and the democratic “repeal or diminution” of such laws should not be possible.**

- **Matthew Baird**

<http://matthewbaird.com.au/>

<http://matthewbaird.com.au/cv/matthew-baird-short-version-cv>

<http://matthewbaird.com.au/cv>

<http://matthewbaird.com.au/about>

**“Matthew’s first international paper was at the LAWASIA conference in Colombo, Sri Lanka in 1993 on Agenda 21.”**

[Matthew supports multilateralism and Rio+20 Principle 10](#)

- **Peter Burdon**

<http://www.adelaide.edu.au/directory/peter.d.burdon>

<http://www.adelaide.edu.au/directory/peter.d.burdon>

<http://www.wakefieldpress.com.au/product.php?productid=909>

<http://gaynewsnetwork.com.au/contributor/peter-burdon-1001.html>

Peter Burdon states in his thesis, [Earth jurisprudence: private property and earth community](#), **“the institution of private property reflects an anthropocentric worldview and is contributing to the current environmental crisis.”** He **“advocates a paradigm shift in law from anthropocentrism to the concept of Earth community.”** He believes in **“Earth Democracy”**, and suggests democracy is interfering with our response to so called ‘climate change’.

- **Bob Debus**

[https://www.iucn.org/about/work/programmes/gpap\\_home/pas\\_gpap/gpap\\_perspective/?11484/Bob-Debus---The-Australia-National-Wildlife-Corridors-Plan](https://www.iucn.org/about/work/programmes/gpap_home/pas_gpap/gpap_perspective/?11484/Bob-Debus---The-Australia-National-Wildlife-Corridors-Plan)

[Bob-Debus---The-Australia-National-Wildlife-Corridors-Plan](#)

[https://en.wikipedia.org/wiki/Bob\\_Debus](https://en.wikipedia.org/wiki/Bob_Debus)

Bob Debus, from the socialist left of the ALP, was a minister in NSW and Federal Labor governments.

- **Michelle Lim**

[Lecturer at Griffith university Law School](#), and author of "[Can Sustainable Development Goals or International Law lead us to sustainability?](#)"

- **Christopher McGrath**

[Queensland barrister specialising in environmental law](#), and author of "[Synopsis of the Queensland Environmental Legal System](#)" in which he considers the influence of Agenda 21 and foreign treaties on Queensland law. Author also of "[Does Environmental Law Work](#)", in which he points out: "*International policy documents and debate such as the Brundtland Report in 1987 and Agenda 21 in 1992 contributed significantly to the massive expansion of environmental law in Australia in the 1990s.*"

- **Nicola Pain**

[Judge in the NSW Land and Environment Court](#) and author of "[Human Rights and Environmental Rights](#)" and "[The Rise of Environmental Law in NSW and Federally](#)"..

- **Brian Preston**

[Chief Judge in the NSW Land and Environment Court.](#)

In an address to the Kenya National Judicial Colloquium on Environmental Law, 10-13 January 2006 entitled "[The Role of the Judiciary in Promoting Sustainable Development: The Experience of Asia and the Pacific](#)", Justice Brian Preston details the history of sustainable development and Agenda 21, and their incorporation into Australian laws. [Brian Preston authored numerous papers](#) and publications, and explained the ideological shift from anthropocentrism to ecocentrism.

See "[Internalising Ecocentrism in Environmental Law](#)", "[The Role of the Judiciary in Promoting Sustainable Development: The Experience of Asia and the Pacific](#)", "[Ecologically Sustainable Development in the Courts in Australia and Asia](#)", "[Judicial Implementation of the Principles of Ecologically Sustainable Development in Australia and Asia](#)."

- **Paul Stein**

[Former judge in the Supreme Court of NSW and the Land and Environment Court of NSW](#), specialist in environmental law, and part of the [United Nations Environment Programme's \(UNEP\) Global Judges Symposium on Sustainable Development and the Role of Law, 2002](#). This resulted in the creation of a *Judicial Portal*, designed and developed by Stein, in co-operation with the World Conservation Union (IUCN). Paul Stein's contribution to ESD jurisprudence was such that [a tribute was organised to acknowledge him](#), with an address by Brian Preston (see [JURISPRUDENCE ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT: PAUL STEIN'S CONTRIBUTION](#))

[http://www.iucn.org/news\\_homepage/news\\_by\\_date/?22382/Announcing-the-2016-World-Environmental-Law-Congress](http://www.iucn.org/news_homepage/news_by_date/?22382/Announcing-the-2016-World-Environmental-Law-Congress)

## Announcing the 2016 World Environmental Law Congress!

15 January 2016 | News story

**We are excited to announce that the 1st World Environmental Law Congress will take place in Rio de Janeiro from 27 to 29 April 2016. The World Environmental Law Congress will provide a global forum to advance the role of law in developing and implementing solutions that will ensure ecological sustainability. This Congress will be the first global gathering of its kind, organized under the auspices of IUCN in cooperation with UNEP, and in close partnership with**

### **Congress Objectives**

Coming at a critical time in the context of worldwide efforts to promote the environmental rule of law and sustainable development, the Congress will deal with three main sub-themes:

- 1) **Planetary challenges:** Assess the current state of environmental law, policy, and jurisprudence in the context of major planetary challenges and environmental issues (Biodiversity and Ecosystems, Climate Change and Energy, and Water and Food Security).
- 2) **Legal opportunities and priorities:** Define opportunities and set priorities for legal systems to actively respond to these challenges and ensure the effective environmental rule of law.
- 3) **Legal institutions and environmental law:** Provide a platform for environmental lawyers, stakeholders and institutions to continue discussion and engagement on common issues and to set priorities, especially in the light of the Sustainable Development Goals.

[http://welcongress.org/wp-content/uploads/2016/04/PROGRAMA\\_COMPLETO\\_WELC\\_ultimo.pdf](http://welcongress.org/wp-content/uploads/2016/04/PROGRAMA_COMPLETO_WELC_ultimo.pdf)

## 2016 WORLD ENVIRONMENTAL LAW CONGRESS

**9:00 - 13:30 WCEL Global Colloquium of Early Career Environmental Law Experts: *Legal tools for sustainable futures in the Anthropocene***

Office of the Attorney General of State of Rio de Janeiro

**Co-Chairs:** Nicholas Bryner (George Washington University Law School, USA) & Michelle Lim (Griffith Law School, Griffith University, Australia)

Hon. Justice Nicola Pain (Land and Environment Court, New South Wales, Australia), Hon. Justice Brian Preston (Chief Judge, Land and Environment Court New South Wales)

<https://app.secure.griffith.edu.au/news/2015/08/27/can-sustainable-development-goals-or-international-law-lead-us-to-sustainability/>

## Can Sustainable Development Goals or International Law lead us to sustainability?

By [Dr Michelle Lim, Griffith Law School](#) Lecturer

[Griffith Law School's Dr Rak Kim](#) has emphasised that the creation of a “mutually supportive relationship between the SDGs and international law will be critical for effective implementation of the post-2015 development agenda.” Despite this, only three conventions are explicitly included in the SDGs.

<http://www.unep.org/newscentre/Default.aspx?DocumentID=27073&ArticleID=36153&l=en>

## **A Healthy Regard for Environmental Justice - Speech by UNEP Executive Director at the 1st World Environmental Law Congress**

This is an important step towards more robust constitutions, with a more coherent approach to environmental rights and human rights. However, there are still some huge hurdles to implementation and compliance. In particular when it comes to the enforcement of legal rights and obligations, which is crucial for the attainment of environmental sustainability. UNEP is taking some clear actions to tackle this. For example, we are working with judges, prosecutors, auditors, government and non-governmental organizations on sharing knowledge that will help to develop, adjudicate and enforce environmental law. This includes the many partner organizations of UNEP here in Rio today and the many others who have been supporting regional dialogues among Asia-Pacific, Africa and Latin America and the Caribbean.....

First, we need to establish a universally accepted mechanism for measuring the environmental rule of law, which is complex, technical and essential.....

Second, we need to expand and promote the links between human rights and the environment: because clean air, water or protecting natural heritage beyond one generation will have to become more of a right.....

And third, we need to establish a coherent approach, with global consensus on the core principles that will promote justice.....

Instead, we need to move into a much more systemic approach, where the legislature, judiciaries and the private sector have an integral role in helping policy makers to understand how we can transition to an inclusive green economy and govern ourselves more intelligently for the real world.

Only then can the environmental rule of law play a full and meaningful role as the backbone of the transformative 2030 Agenda and the Paris Agreement.

[http://www.unep.org/rio20/Portals/24180/Rio20\\_Declaration\\_on\\_Justice\\_Gov\\_n\\_Law\\_4\\_Env\\_Sustainability.pdf](http://www.unep.org/rio20/Portals/24180/Rio20_Declaration_on_Justice_Gov_n_Law_4_Env_Sustainability.pdf)

### **Rio+20 Declaration on Justice, Governance and Law for Environmental Sustainability**

*We, the Chief Justices, Heads of Jurisdiction, Attorneys General, Auditors General, Chief Prosecutors, and*

*other high-ranking representatives of the judicial, legal and auditing professions gathered here in Rio de Janeiro,*

*Brazil, from 17 – 20 June 2012 for the World Congress on Justice, Governance and Law for Environmental Sustainability; 1*

*Declare that:*

#### **I. Messages to Heads of State and Government, other high-level representatives, and the world community at large**

Without adherence to the rule of law, without open, just and dependable legal orders the outcomes of Rio+20

will remain unimplemented.

An independent Judiciary and judicial process is vital for the implementation, development and enforcement of

environmental law, and members of the Judiciary, as well as those contributing to the judicial process at the national, regional and global levels, are crucial partners for promoting compliance with, and the implementation and enforcement of, international and national environmental law.

Environmental law is essential for the protection of natural resources and ecosystems and reflects our best hope for the future of our planet.

Environmental litigation often transcends national jurisdictions. We need more effective national and international dispute settlement systems for resolving conflicts.

Environmental sustainability cannot be achieved without good quality data, monitoring, auditing and accounting for performance.

Environmental and sustainability auditing ensures transparency, access to information, accountability, and efficient use of public finances, while protecting the environment for future generations.

Judges, public prosecutors and auditors have the responsibility to emphasize the necessity of law to achieve

sustainable development and can help make institutions effective.

Scientific information and knowledge is a central foundation of effective compliance with and enforcement of environmental obligations.

States should cooperate to build and support the capacity of courts and tribunals as well as prosecutors,

auditors and other related stakeholders at national, sub-regional and regional levels to implement environmental

law, and to facilitate exchanges of best practices in order to achieve environmental sustainability by encouraging

relevant institutions, such as judicial institutes, to provide continued education.

The existing international governance institutions to protect the global environment should be strengthened. We

must create modern institutional structures capable of building networks and improved sharing of decisionmaking.

There is an urgent need to give consideration to transforming UNEP to effectively lead and advance the

global policy and law-making agenda for the environment within the framework of sustainable development.

## **II. Principles for the Advancement of Justice, Governance and Law for Environmental Sustainability**

Meeting environmental objectives is part of a dynamic and integrated process in which economic, social and

environmental objectives are closely intertwined.

We recognize that environmental laws and policies adopted to achieve these objectives should be nonregressive.

Environmental sustainability can only be achieved in the context of fair, effective and transparent national

governance arrangements and rule of law, predicated on:

Compliance and Enforcement (INECE); Environmental Law Commission of the International Union for the Conservation of Nature (IUCN); and Law for a Green Planet Institute.

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(a) fair, clear and implementable environmental laws;

(b) public participation in decision-making, and access to justice and information, in accordance with Principle 10 of the Rio Declaration, including exploring the potential value of borrowing provisions from

the Aarhus Convention in this regard;

(c) accountability and integrity of institutions and decision-makers, including through the active engagement of environmental auditing and enforcement;

(d) clear and coordinated mandates and roles;

(e) accessible, fair, impartial, timely and responsive dispute resolution mechanisms, including developing specialized expertise in environmental adjudication, and innovative environmental

procedures and remedies; (f) recognition of the relationship between human rights and the environment;  
and

(g) specific criteria for the interpretation of environmental law.

Environmental sustainability can only be achieved if there exist effective legal regimes, coupled with effective

implementation and accessible legal procedures, including on *locus standi* and collective access to justice, and

a supporting legal and institutional framework and applicable principles from all world legal traditions. Justice, including participatory decision-making and the protection of vulnerable groups from disproportionate

negative environmental impacts must be seen as an intrinsic element of environmental sustainability. Only through the active engagement of all parts of society, especially national and sub-national institutions and

officials responsible for addressing justice, governance and law issues, including judges, prosecutors, auditing

institutions and other key functionaries, can meaningful progress be achieved that is sustained and responsive

to the needs of the peoples of the world and protective of human rights.

### **III. Institutional Framework for the Advancement of Justice, Governance and Law for Environmental**

#### **Sustainability in the 21st Century**

With UNEP's leadership, an international institutional network should be established, with the engagement of the

World Congress partners and other relevant organizations, and under the guidance of selected Chief Justices,

Heads of Jurisdiction, Attorneys General, Chief Prosecutors, Auditors General, eminent legal scholars and other

eminent members of the law and enforcement community.

This international institutional network may promote the achievement of:

(a) continued engagement of Chief Justices, Attorneys General, Heads of Jurisdiction, Chief Prosecutors and Auditors General, the institutions they represent and other components of the legal and

enforcement chain, including through networks at the international and regional levels;

(b) quality information and data exchange and discussion among the legal and auditing communities at large;

(c) continued development and implementation of environmental law at all levels, and encouraging the further expansion of environmental jurisprudence;

(d) improved education, capacity building, technology transfer and technical assistance, including with the aim of strengthening effective national environmental governance; and

(e) adequate engagement by respective national governments for the set objectives.

UNEP may contribute to ensure necessary funding for capacity building and information exchange for strengthened capacities.

<http://www.iisd.ca/uncsd/rio20/unepwc/html/yimbvol203num1e.html>

## **SUMMARY OF THE WORLD CONGRESS ON JUSTICE, GOVERNANCE AND LAW FOR ENVIRONMENTAL SUSTAINABILITY**

17-20 JUNE 2012

<https://www.un.org/ruleoflaw/key-documents/>

### **Resolution adopted by the General Assembly on 24 September 2012**

[without reference to a Main Committee (A/67/L.1)]

#### **67/1. Declaration of the high-level meeting of the General Assembly on the rule of law at the national and**

## **international levels**

*The General Assembly*

*Adopts* the following declaration:

### **Declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels**

27. We recognize the positive contribution of the General Assembly, as the chief deliberative and representative organ of the United Nations, to the rule of law in all its aspects through policymaking and standard setting, and through the progressive development of international law and its codification.

31. We recognize the positive contribution of the International Court of Justice, the principal judicial organ of the United Nations, including in adjudicating disputes among States, and the value of its work for the promotion of the rule of law; we reaffirm the obligation of all States to comply with the decisions of the International Court of Justice in cases to which they are parties; and we call upon States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute. We also recall the ability of the relevant organs of the United Nations to request advisory opinions from the International Court of Justice.

33. We commend the work of the International Law Commission in advancing the rule of law at the international level through the progressive development of international law and its codification.

37. We reaffirm that States shall abide by all their obligations under international law, and stress the need to strengthen support to States, upon their request, in the national implementation of their respective international obligations through enhanced technical assistance and capacity-building.