



Submission by Wild Law UK to the United Nations Conference on Sustainable Development

Introduction

Wild Law UK¹ submits the following contributions to the United Nations Conference on Sustainable Development, for inclusion in a compilation document to serve as a basis for the preparation of a zero draft of the outcome document. This submission sets out our views on how to make the United Nations Conference on Sustainable Development (Rio +20 Summit) a success.

The common belief of those who are part of Wild Law UK is that governance systems, including law, must be rapidly reoriented so that they support, rather than undermine, the long-term health and integrity of the Earth. This approach is known as Earth-centred governance, which recognises that humans are one of the many species making up the amazingly diverse Earth community and seeks to rebalance our relationship with the Earth system.² Wild Law UK aims to secure rights of nature in law.

Wild Law UK consists of more than 100 UK-based legal professionals from the private, public and voluntary sectors and non-lawyers from all walks of life, including students, environmental campaigners, academics, scientists and economists.

Summary

Rio +20 should urgently:

- 1. Address the need for Earth-centred governance, and recognise the rights of nature to support, rather than undermine, the long-term health and integrity of the Earth.**
- 2. Re-define sustainable development to embody Earth-centred principles.**
- 3. Endorse and promote the Universal Declaration of the Rights of Mother Earth³ and secure political commitment to implement this at the national and local levels.**
- 4. Reorient Agenda 21 to incorporate Earth-centred governance principles.**
- 5. Support the proposal for a Crime of Ecocide.**
- 6. Support the proposal for a Declaration of Planetary Boundaries.**

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² For seminal reading on Earth-centred governance see, for example, Berry, Thomas., *The Great Work*, Bell Tower, 1999 (who developed 'Earth Jurisprudence'), Cullinan, Cormac., *Wild Law*, (Green Books, 2011) 2nd ed., Stone, Christopher., *Should Trees Have Standing* (OUP, 2010), 3rd ed., and *Exploring Wild Law: The Philosophy of Earth Jurisprudence*, edited by Peter Burdon (Wakefield Press, 2011).

³ See website of Global Alliance for Rights of Nature for text: <http://therightsofnature.org/universal-declaration/>

In Section A, Wild Law UK sets out our general views on the objectives of Rio+20, and in Section B on the specific issues which should be addressed at the Conference.

Section A: Objectives of Rio+20

A.1. To secure renewed political commitment for sustainable development

A.1.2. The Stockholm Declaration in 1972 recognised 3 elements/ ‘pillars’ to sustainable development: environment, society and economy. The Report of the World Commission on Environment and Development: Our Common Future in 1987 defined sustainable development as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. However, over the years sustainable development has become conflated with unlimited economic growth and does not ensure protection of the environment or social justice. Current approaches to sustainable development fail to recognise that the economy is rooted in and dependant on Earth and should support the whole community of life on Earth and future generations. Earth, our life support system, is a non-negotiable/tradable element of sustainability.

A.1.3 A different approach to sustainable development is needed. As Einstein once said: ‘we cannot solve a problem with the same thinking we used when we created [it]’. Wild Law UK believes that for development to be truly sustainable it needs to be founded on Earth-centred principles which promote the long-term health and integrity of the Earth, recognising that Earth has limits within which humans must live, and respecting the inherent rights of all life on Earth of present and future generations. Wild Law UK suggests that a more accurate approach to sustainable development would be seeing it as two pillars, economy and society, rooted in the Earth/ environment and functioning within her limits.

A.1.4 Earth-centred principles include:

a) Earth-centred governance

- Recognises the intrinsic value of nature – as a life support system for all life on Earth, rather than as a "resource" for the sole benefit of humanity.
- Respects the Earth’s limits/boundaries and reflects scientific understanding of how ecosystems operate. For example we should adopt a precautionary approach and prevent human activities from causing species extinction, the destruction of ecosystems or the disruption of ecological cycles, including through phenomena such as climate change.⁴
- Respects rights of nature to exist, to habitat and fulfil their role in the community of life, and to restoration from damage.
- Recognises humans are one of many species in the amazingly diverse Earth community.

b) Mutually enhancing relationship with nature

- Rebalances the human relationship with the Earth system, from which human wellbeing derives, so that it contributes to the wellbeing of the whole Earth community now and in the future.

c) Community ecological governance

⁴ Article 3(h) of the Declaration of the Rights of Mother Earth.

- Respects the rights of all species of the Earth community to participate in governance decision-making which affects their life and future.

A.1.5 Rio +20 needs to renew political commitment to redefine sustainable development to embody Earth-centred principles. The Rio Summit in 1992 was known as the ‘Earth Summit’. Rio+20 should ensure Earth is at the centre of sustainability.

A.2. Progress to date

A.2.1 Progress is lacking. While it is commendable that previous summits on sustainable development have led to international environmental agreements, for example the Rio Summit 1992 led to the Convention on Biological Diversity and UN Framework on Climate Change, environmental degradation continues to increase. Numerous assessments confirm that present and future generations are facing unprecedented, multiple and connected ecological, social and economic crises. There are threats of mass extinction of biodiversity (many in the scientific community believe that we have already entered the sixth mass extinction caused by human activity), mass deforestation and loss of habitats, climate change, peak oil, increased food insecurity, increased poverty and breakdown of communities.⁵

A.2.2 Our current relationship with nature is one-sided, but this cannot be sustained. If we continue with this human-centred approach/unlimited economic growth, the Earth will reach a tipping point beyond which ecosystems and Earth’s life support systems will collapse. Without the natural world we cannot survive. Without recognising the intrinsic value and rights of the Earth and all life, we are in severe danger of irreparably damaging our own life support system.

A.2.3 A critical gap in implementing outcomes of the major summits is a lack of recognition of Earth-centred principles.

A.3. New and emerging challenges

A.3.1 Rio +20 should address the alarming reality that we have exceeded the safe operating space (boundaries) for three of nine planetary systems (climate change, biodiversity loss and excess nitrogen and phosphorus production).⁶ Such human activities are damaging Earth and undermining the conditions of life for present and future generations. Wild Law UK believes Governments and society need to address this urgent challenge if we are to pass on a viable and flourishing future to the generations to come.

A.3.2 Rio +20 should also address the growing challenge of human-centred governance, and lack of recognition of the rights of nature. Current governance is failing to prevent the cumulative degradation of the natural world. The root cause is disconnection from the Earth and human-centred thinking embedded in laws and sustainable development policies, which even in their most

⁵ See for example, Secretariat of the Convention on Biological Diversity (2010) Global Biodiversity Outlook 3 Text available at <http://gbo3.cbd.int/> and Millennium Ecosystem Assessment 2005; text available at <http://www.maweb.org/documents/document.356.aspx.pdf>

⁶ Rockström, J et al. Planetary boundaries: Exploring the safe operating space for humanity. *Ecology and Society* [online] 14, 32 (2009). www.ecologyandsociety.org/vol14/iss2/art32

protective environmental form, treat nature as a "resource" for the sole benefit of humanity. A recent example of this is the UK's Natural Environment White Paper which values nature purely for 'environmental services' for the benefit of humans. Laws and policies recognise the rights of fictitious corporations but not the inherent rights of nature, which is alive. As such, protection of nature is often subsumed to the perceived greater "[human] public interest" in economic growth. Such anthropocentrism is out of step with science, and leads to a dangerously unbalanced relationship between humans and the rest of the community of life on Earth.

Section B: Specific issues which should be urgently addressed at Rio

B.1. Rio +20 should redefine sustainable development to embody Earth-centred principles.

B.1.1 These principles are set out in detail in A.1.4 above.

B.2. Rio +20 should adopt the Universal Declaration of the Rights of Mother Earth⁷ and encourage implementation mechanisms at national and local levels.

B.2.1 Following the failure of Copenhagen Summit, the Bolivian Government organised an alternative conference for communities, NGOs, lawyers, academics, scientists and governments from around the world, in Cochabamba, Bolivia, coinciding with Mother Earth Day on April 22nd 2010. Around 35,000 people participated from 140 countries and they adopted a Declaration of the Rights of Mother Earth which recognizes Earth as a living being with rights to life, to continue her vital cycles and processes (free from human disruptions), and to restoration from destructive human activities.

B.2.2 Wild Law UK believes that the time has come to recognise the rights of nature in law.

B.3. Rio +20 should avoid:

- renewing political commitment to a human-centred definition of sustainable development which prioritises unlimited economic growth and short-term individual gain, over interests of the whole community of life on Earth, of present and future generations.
- focussing on the green economy, rather than on overarching governance systems, of which the economy is one element. Growing the economy must not be seen as an end in itself. The purpose of governance should be to promote the wellbeing of the whole community of life on Earth.
- defining a 'green economy' as unlimited economic growth, without regard to Earth-centred principles, particularly the Earth's limits and planetary boundaries.

B.4. Green economy in the context of sustainable development and poverty eradication

B.4.1 There is a lack of clarity on the definition of green economy. Wild Law UK believes a green economy should be based on Earth-centred principles, as explained above, for the benefit of the whole community of life on Earth.

⁷ See <http://therightsofnature.org/universal-declaration/>

B.4.2 As Article 7 of the Universal Declaration of the Rights of Mother Earth states: ‘The rights of each being are limited by the rights of other beings and any conflict between their rights must be resolved in a way that maintains the integrity, balance and health of Mother Earth.’ Further States should promote economic systems that are in harmony with Mother Earth and consistent with the rights of nature.⁸ Earth-centred governance seeks to rebalance our relationship with the Earth system from destructive to mutually enhancing for the benefit of the whole Earth community.

B.5. The institutional frameworks (at international, regional, national and local levels) required

B.5.1 Sustainable development is more than a green economy. Institutional frameworks are necessary at all levels to deliver Earth-centred governance, not just a green economy, for the benefit of present and future generations of all species (not just humans). Any institutional framework should be guided and aligned with the Earth-centred principles explained above, and promote a significant shift in personal and societal values and behaviour towards nature. Earth-centred governance and limits must underpin all our decisions.

B.5.2 Inspiration for institutional frameworks can be drawn from the proposed Ombudsman for Mother Earth in Bolivia.⁹ Also the Green Ombudsman for future generations in Hungary, appointed in 2007 to uphold the peoples' Constitutional right to a healthy environment. The Commissioner is entrusted with broad powers to investigate complaints including environmental issues, advocate on sustainability issues and also widen the knowledge base through research projects.¹⁰

B.5.3 People also have an important role to play in implementing sustainable development. Rio established Agenda 21 as a blueprint for sustainable development and this set out the importance of local actions. The World Charter for Nature, a legally binding document adopted by the United Nations General Assembly in 1982, calls for humans to be guided by a moral code of action including respect and protection of nature. The Earth Charter, a United Nations initiative developed by global civil society and launched as a people’s charter in 2000 by the Earth Charter Commission, “seeks to inspire in all peoples a sense of global interdependence and shared responsibility for the well-being of the human family, the greater community of life, and future generations”. The Universal Declaration of the Rights of Mother Earth says that ‘every human being is responsible for respecting, protecting and living in harmony with Mother Earth’.¹¹ Public participation and leadership in decision-making is critical to ensure a more sustainable future for all. Wild Law UK acknowledges that in order to secure such a radical change we need to transform hearts and minds, creating a shift in personal and cultural world views, values and ethics. Some examples of best practice for local governance includes the Transition Town movement (which aims to build the resilience of local communities to cope with the twin challenges of peak oil and

⁸ See Article 3(2)(1) of the Declaration of Rights of Mother Earth.

⁹ The Guardian 10 April 2011, see: www.guardian.co.uk/environment/2011/apr/10/bolivia-enshrines-natural-worlds-rights.

¹⁰ See http://www.fdsd.org/2010/02/hungarys_green_ombudsman/

¹¹ Article 3(1) Universal Declaration of Rights of Mother Earth.

climate change),¹² Community Ecological Governance¹³ and the Council of Elders in many indigenous communities.

B.5.4 A transition from human to Earth-centred governance is urgently needed. Inspiring legal precedents include the Ecuadorian Constitution – which was the first Constitution in the world to recognise the legally enforceable rights of nature. In a recent case in Ecuador, the Provincial court of Loja granted an injunction against the Provincial Government of Loja to stop dumping excavation material into the Vilcabamba river, because it violated the constitutional rights of the river to exist and maintain its vital cycles, structure, functions, and evolutionary processes.¹⁴ There are also dozens of local ordinances (laws) in the United States which acknowledge the legal rights of natural communities and ecosystems to ‘exist and flourish’, which recognise self-governance of communities and which deny the personhood of corporations engaging in ecologically and socially destructive activities¹⁵.

B.6. The objectives and roles the UK Government should assume in the run-up to and at the Conference

- support and implement the Universal Declaration of the Rights of Mother Earth
- raise awareness of the need for Earth-centred governance
- promote a shift in personal and societal values and behaviour to recognise the rights of nature
- promote economic systems which comply with Earth-centred principles and define green economy within Earth’s limits for the benefit of present and future generations
- facilitate public participation in Rio +20
- show leadership in the EU by implementing Earth-centred governance.

B.7. Ideal outcomes from Rio+20

B.7.1 Re-framing of sustainable development to embody Earth-centred governance principles.

B.7.2 Adoption of the Universal Declaration for Rights of Mother Earth¹⁶ by the United Nations and implemented at the national level.

B.7.2.1 This Declaration could be enforced by:

- an international environmental court such as the proposed International Court for the Environment¹⁷, which advocates wider access to environmental justice.
- adoption of domestic laws which recognise and protect the rights of nature, e.g. the Bolivian Law of Mother Earth and the Ecuadorian Constitution.
- recognising the rights of individuals and civil society groups to enforce the rights of nature, e.g., by widening interpretation of the provisions of the United Nations Economic Commission for

¹² <http://www.transitionnetwork.org/>

¹³ For more information please visit <http://www.gaiafoundation.org/content/community-ecological-governance> and <http://www.africanbiodiversity.org>

¹⁴ <http://therightsofnature.org/first-ron-case-ecuador/>

¹⁵ <http://www.celdf.org/section.php?id=39>

¹⁶ See website of Global Alliance for Rights of Nature for text: <http://therightsofnature.org/universal-declaration/>

¹⁷ <http://www.environmentcourt.com/welcome.php>

Europe Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (the Aarhus Convention)¹⁸.

- creating institutional mechanisms to promote and advocate the rights of nature such as Bolivia's proposal for an ombudsman for Mother Earth, or a Commission for Nature's Rights, similar to the Equality and Human Rights Commission in the U.K.

- Respecting the provisions of the World Charter and Earth Charter which set out duties and responsibilities for the respect and protection of Earth and the 'greater community of life and future generations'.

B.7.3 Re-orientation of Agenda 21 to incorporate Earth-centred governance principles – as an 'Agenda for the Earth Community'.

B.7.4 Adoption of the proposed Crime of Ecocide¹⁹, with Ecocide to mean 'the extensive destruction, damage to or loss of ecosystem(s) of 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.' This could be enforced by an international court.

B.7.5 Support the proposal for a Declaration of Planetary Boundaries²⁰ which recognises and respects the necessary Earth-system processes which sustain all life, and promotes responsibility for safeguarding these processes from serious or irreversible damage. A Planetary Boundary Institution could promote the principles of the Declaration.

B.7.6 Support the social movement for Earth-centred governance. There is a growing movement of communities, organisations, lawyers, policy makers and academics advocating for the rights of nature and living in harmony with nature. There are strong advocates in the UK, U.S., Australia, Africa, South America and Asia, including Wild Law UK, Gaia Foundation²¹, Global Alliance for Rights of Nature²², African Biodiversity Network²³, Centre for Earth Jurisprudence²⁴ and many more. Connections with other like-minded advocates should be supported. For real change to occur, an holistic approach and practice of Earth-centred governance and respect of rights of nature is necessary by other stakeholders including the wider public, Government, and business.

B.8 The potential risks to the ideal outcomes being achieved. These include:

- a persistent presumption of the status quo for unlimited economic growth over Earth-centred governance
- lack of support from member States, particularly in implementation and enforcement
- lack of financial support to promote Earth-centred governance.

These obstacles can be overcome if there is political commitment to addressing the root causes of continued environmental degradation.

Wild Law UK, 27 October 2011

¹⁸ <http://ec.europa.eu/environment/aarhus/>

¹⁹ An initiative proposed by UK barrister Polly Higgins. For more information visit: www.thisiseccocide.com

²⁰ An initiative proposed by UK lawyer Peter Roderick.

²¹ See www.gaiafoundation.org

²² See <http://therightsofnature.org>

²³ See www.africanbiodiversity.org

²⁴ See www.earthjuris.org