

SUBMISSION BY EARTH LAW CENTER TO SUSTAINABLE DEVELOPMENT GOALS PROCESS (MAJOR GROUPS POSITION)¹

March 7, 2013

INTRODUCTION

Earth Law Center is a 501(c)(3) public benefit organization dedicated to advancing Earth-based laws, economic structures, and governance systems that reflect the intrinsic rights of the natural world to exist, thrive and evolve. Earth Law Center staff has considerable expertise in advancing sustainable environmental laws and policies at the local, state and federal levels. We welcome the opportunity to submit these inputs and contributions for consideration in the development of Major Group statements and positions that will advise preparation of the United Nations' Sustainable Development Goals (SDGs).

Earth Law Center supports the following positions for inclusion in the Major Groups' input on the development of the SDGs:

- Support for Earth-based SDGs, specifically through inclusion of **commitments to recognize in law the rights of ecosystems and species** to exist, thrive and evolve.
- Endorsement, and promotion for adoption and implementation, of the **Universal Declaration of the Rights of Mother Earth**, and active support for its implementation globally.
- Re-characterization of “sustainable development” as “sustainable communities,” a term that includes both human communities and the wider communities of the natural world. Adoption of **SDGs with a focus on sustainable communities** is necessary to ensure that *all* elements of well-being are considered. The current, neoliberal economics-based development approach distorts communities to serve the economy. Elements of sustainable human communities include not just the economy, but also culture, societal/familial relations, healthy food, clean drinking water, sanitation, housing, necessary medical care, democratic governance, education, meaningful and appropriately rewarded labor, spirituality, civic duty, volunteerism, etc. Sustainable environmental communities similarly require healthy nutrients, clean water, biodiversity, restoration in the face of destruction, and thriving, connected habitats. *The economy must be viewed as serving human and environmental communities, not the reverse.*

As the last several decades have increasingly shown, our experiment with ecosystem- and species-fueled, “unlimited” growth on a finite planet will inevitably fail. The focus now should be on reworking our overarching governance systems to embrace the goal of sustainable communities, rather than contorting our communities to serve runaway, increasingly destructive growth. The SDG process will help guide us on this path, and so it should include specific goals to advance in law the rights of nature, which *necessarily* will drive appropriate development within Earth's limits. We provide below for consideration by the Major Groups specific details on the existence and growing adoption of rights-based legal and policy protections for the natural world.

¹ <http://sustainabledevelopment.un.org/index.php?menu=1565>.

THE RIGHTS OF NATURE ARE BEING RECOGNIZED BY INDIVIDUAL COUNTRIES

In 2008, Ecuador it became the first nation in the world to adopt a constitutional provision endowing nature with inalienable, enforceable rights.² Article 71 states that the natural world has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution, and allows for enforcement by individuals and communities. Article 72 further provides the natural world with a right to restoration independent of humans' right to compensation. These provisions were first tested in a successful 2011 case, in which the court found that the Vilcabamba River's constitutional right to flow had been violated by destructive road development practices and ordered its full restoration.³

Ecuador followed this constitutional leadership with its National Plan for Good Living,⁴ which offers administrative and regulatory strategies consistent with the Plan's challenge to "the notion of material, mechanic and endless accumulation of goods," and its proposal to "shift from the current prevailing anthropocentrism to what we may call bio-pluralism."

The precedent set by the Ecuadorian Constitution gave support to Bolivia's efforts on rights of nature. Bolivia's Plurinational Legislative Assembly passed, and President Morales signed in December 2010, the Law of the Rights of Mother Earth (Law 071)⁵ to recognize the rights of Mother Earth and the obligations and duties of the Multinational State and society to ensure respect for these rights. Bolivia then enacted the Law of Mother Earth and Integral Development for Living Well (Law 300),⁶ which sets out further details on the process for implementing life in harmony with nature.

Bolivia also initiated the international conference that resulted in the adoption of the Universal Declaration of the Rights of Mother Earth in 2010 (as described further below), and has advanced resolutions at the UN to recognize and dialogue on life in harmony with Mother Earth.⁷

Protections of the rights of waterways are also being developed in New Zealand through court agreements between Maori iwi and the Crown government, which bring a critical indigenous perspective to this effort. In August 2012 an agreement between the Whanganui iwi and the Crown granted the Whanganui River rights and standing as a legal entity, with co-guardians to be assigned to protect those rights.⁸ The agreement "recognises the intrinsic interconnection between the Whanganui River and the people of the River (both iwi and the community generally)," and finds

² *Constitución de la República del Ecuador*, Title II, Ch. 7 (Sept. 2008), available at: http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf.

³ *Wheeler y Huddle en contra de Director de la Procuraduría General del Estado en Loja* (30 March 2011) Juicio No. 11121-2011-10, Casillero No. 826, Corte Provincial de Justicia de Loja, available at : http://earthlawcenter.org/static/uploads/documents/Vilcambamba_River_Decision_3_31_11.pdf.

⁴ Republic of Ecuador, "National Plan for Good Living 2009-2013" (2010), available at: <http://plan2009.senplades.gob.ec/web/en/home>.

⁵ Available at: <http://www.lexivox.org/norms/BO-L-N71.xhtml>, and also at: http://f.cl.ly/items/212y0r1R0W2k2F1M021G/Mother_Earth_Law.pdf.

⁶ Available at <http://www.lexivox.org/norms/BO-L-N300.xhtml>.

⁷ UN, "Harmony with Nature: Interactive Dialogues of the General Assembly," online at: <http://www.harmonywithnatureun.org/dialogues.html>.

⁸ See, e.g., C. Finlayson, "Whanganui River Agreement Signed" (30 August 2012), available at: www.beehive.govt.nz/release/whanganui-river-agreement-signed.

“the health and wellbeing of the Whanganui River is intrinsically interconnected with the health and wellbeing of the people.”⁹ It “view[s] the Whanganui River as a living being, Te Awa Tupua; an indivisible whole including all the physical and metaphysical elements” (Art. 1.2), and supports the role of the Whanganui Iwi to “care, protect, manage and use the Whanganui River” (Art. 1.3). This agreement is the first in a series of upcoming, additional agreements. Like the Ecuador Constitution, it provides model language for other governments around the world to emulate in developing laws and goals protecting the rights of people, ecosystems and species, including regarding appointment of independent guardians of those rights (Arts 2.18-2.22).

RECOGNITION OF THE RIGHTS OF NATURE AT THE UN LEVEL IS GROWING

UN Conference on Sustainable Development (Rio +20): Preparatory Meetings

A number of countries have signaled their support for rights of nature through UN processes. For example, the Preparatory Committee for Rio +20 invited all member States, UN system organizations, and stakeholders to provide inputs and contributions to the Secretary-General of the Conference in writing by November 1, 2011. These inputs were collected into a Compilation Document that served as basis for the January 2012 “Zero Draft” of the Rio +20 Outcome Document. The specific contributions quoted below, which are excerpted directly from the member states’ submissions in the Compilation Document, each address the rights of nature.¹⁰

Plurinational State of Bolivia Inputs to Secretary-General for Rio +20 Zero Draft

“The Rights of Nature

The proposals developed by the Plurinational State of Bolivia bring together and build upon the progress made in the World Charter for Nature (1982), the Rio Declaration (1992), the Earth Charter (2000), and the World People’s Conference on Climate Change and the Rights of Mother Earth (2010)

To reestablish harmony with nature, we must recognize and respect the intrinsic laws of nature and its vital cycles. Not only do human beings have a right to a healthy life, but so do the other components and species belonging to the system we call nature. In an interdependent and interrelated system like the planet Earth, it is not possible to recognize the rights of just the human part of the system without affecting the whole.

Just as human beings have rights, the Mother Earth also has the right to exist, the right to maintain its vital cycles, the right to regeneration, the right to be free from structural alteration, and the right to relate to the other parts of the Earth system. In order to reestablish balance with nature, it is necessary to clearly establish the obligations of humans toward nature, and to recognize that nature has rights that should be respected, promoted, and defended.

⁹ “Tūtohu Whakatupua Agreement between the Whanganui Iwi and the Crown” (Aug. 30, 2012), available at: <http://nz01.terabyte.co.nz/ots/DocumentLibrary%5CWhanganuiRiverAgreement.pdf>.

¹⁰ Bureau of the UN Conference on Sustainable Development, “Compilation Document: Member States” (January 2012), available at: <http://www.uncsd2012.org/compdocument.html>.

Without water, there is no life. Humans and all living things have the right to water, but water also has rights. All States and peoples worldwide should work together in solidarity to ensure that loss of vegetation, deforestation, the pollution of the atmosphere and contamination are prevented from continuing to alter the hydrological cycle. These cause desertification, lack of food, temperature increase, sea level rise, migrations, acid rain, and physical-chemical changes that could provoke the loss of genetic and species diversity, damaging the health of ecosystems”

Republic of Costa Rica Inputs to Secretary-General for Rio +20 Zero Draft

“Significant contributions to progress towards sustainable development are made by efforts related to human resources training, support for local initiatives and vulnerable groups, information and awareness-raising activities, activities with a political impact and support for the rights of vulnerable peoples and groups, *campaigns to defend the rights of endangered species and ecosystems*, support for production and service programmes, etc.” (Emphasis added.)

Republic of Ecuador Inputs to Secretary-General for Rio +20 Zero Draft

“17. The Conference should encourage recognition of the rights of nature, that is to say, the right to full respect for its existence, maintenance and regeneration of its life cycles, structures, functions and evolutionary processes. States should be urged to take precautionary measures and restrict activities that could lead to the extinction of species, the destruction of ecosystems or permanent changes to natural cycles.

18. We hereby call for a Universal Declaration of the Rights of Nature, as a response that would ensure that present and future generations can live well.

19. Ecuador proposes living well as an alternative to development, as a new paradigm to replace the prevailing model based on endless economic growth, which has led to overexploitation of natural resources and to poverty, inequality and exclusion of the majority of the population. Living well is a work in progress, borrowed from the ancestral knowledge of the indigenous peoples and nationalities, which involves living in harmony with oneself, nature and others to build democratic, inclusive, plurinational and multicultural States.”

Republic of Paraguay Inputs to Secretary-General for Rio +20 Zero Draft

“Restoring equilibrium with nature requires a recognition of the values inherent in nature, a clear definition of the obligations of human beings toward nature and a recognition of the human right to live in a healthy and ecologically balanced environment (Art. 7 of the National Constitution of Paraguay). *Nature has rights that must be respected, promoted and defended; Earth has a right to its vital cycles, a right to regenerate itself, a right not to have its structure modified and the right to interact with the other parts of the biosphere. Unless the rights of nature are respected and safeguarded, it will not be possible to guarantee human rights and achieve sustainable development.*” (Emphasis added.)

UN Conference on Sustainable Development (Rio +20): “The Future We Want”

Due in part to strong support by Brazil as the Rio +20 host country, the final UN Outcome Document for Rio +20 also referenced to the rights of nature movement, stating:

We recognize that planet Earth and its ecosystems are our home and that “Mother Earth” is a common expression in a number of countries and regions, and we note that some countries recognize the rights of nature in the context of the promotion of sustainable development.¹¹

The Rio +20 Outcome Document further recognized other governance changes that need to be instituted in order to “guide humanity to live in harmony with nature” and “restore the health and integrity of the Earth’s ecosystem,”¹² including “the need for broader measures of progress to complement gross domestic product.”¹³

Universal Declaration of the Rights of Mother Earth and the Universal Declaration of Human Rights

As noted above, the precedent set by the Ecuadorian Constitution led to the adoption, spearheaded by Bolivia, of an international “Universal Declaration of the Rights of Mother Earth” (UDRME), approved by an assembled delegation of over 35,000 people representing 140 countries in Cochabamba at the World People's Conference on Climate Change and the Rights of Mother Earth in April 2010.¹⁴ The UDRME was modeled in part on the Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly in 1948. As articulated by the UDHR Drafting Committee, “the supreme value of the human person...did not originate in the decision of a worldly power, *but rather in the fact of existing*.”¹⁵ Like our own value, the value and rights of nature do not arise from human decisions, but from existence on this planet.

The UDHR recognizes at Article 1 that “All human beings are born free and equal in dignity and rights.” The UDHR lists numerous rights that protect individuals from the excesses of the state, including the “right to life, liberty and security of person” (Article 3) and the “right to an effective remedy” for acts violating named rights (Article 8). Nations’ human rights obligations under the UDHR extend to protection of the natural world that nurtures us, as expressed (for example) by the UN’s recognition that the right to water is “a pre-requisite to the realization of all other human rights.”¹⁶

¹¹ UN General Assembly, “Resolution A/RES/66/288: The Future We Want,” para. 39 (11 Sept. 2012), available at: <http://sustainabledevelopment.un.org/futurewewant.html> (The Future We Want).

¹² *Id.*, para. 40.

¹³ *Id.*, para. 38.

¹⁴ World People's Conference on Climate Change and the Rights of Mother Earth “Universal Declaration of the Rights of Mother Earth” (22 April 2010), available at: <http://pwccc.wordpress.com/programa/> (UDRME).

¹⁵ Statement by Herman Santa Cruz, Chile; online at: www.un.org/en/documents/udhr/history.shtml (emphasis added).

¹⁶ UN Committee on Economic, Cultural and Social Rights, “E/C.12/2002/11: Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights: General Comment No. 15 (2002)” (20 Jan. 2003), available at: [http://www.unhcr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94/\\$FILE/G0340229.pdf](http://www.unhcr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94/$FILE/G0340229.pdf).

With similar logic and ethics to the UDHR, the UDRME states that “[t]he inherent rights of Mother Earth are inalienable in that they arise from the same source as existence.”¹⁷ Like the UDHR, the UDRME defends the rights-bearing entity (nature and its elements) from the excesses of governing authorities. These rights include the recognition that “Mother Earth and all beings of which she is composed have ... the right to life and to exist” (Article 2, Section 1), and “[e]ach being has the right to a place and to play its role in Mother Earth for her harmonious functioning” (Article 2, Section 2). The UDRME specifically requires humans and their institutions to “recognize and promote the full implementation and enforcement of the rights and obligations recognized in this Declaration” and requires “damages caused by human violations of the inherent rights” to be “rectified,” with those responsible “held accountable” (Article 3, Section 2). Submitted to the United Nations shortly after its approval, the UDRME was formally considered at the April 2011 UN Dialogue on Harmony with Nature.¹⁸

Since its adoption almost 65 years ago, the UDHR’s commitment to basic rights and freedoms has been translated into constitutional, statutory and judge-made law through which human rights are expressed and guaranteed. The same can be done to reflect in law and policy (*e.g.*, through the SDGs) the inherent rights of nature.

COMMUNITIES IN THE UNITED STATES ARE BEGINNING TO EMBRACE RIGHTS OF NATURE

Municipalities around the United States have also begun adopting ordinances recognizing the rights of the natural world.¹⁹ The largest city to recognize these rights, Pittsburgh, Pennsylvania, adopted an ordinance recognizing that “[n]atural communities and ecosystems ... possess inalienable and fundamental rights to exist and flourish.”²⁰ A map of many of these ordinances can be found at www.earthlawcenter.org/earth-community/.

PEOPLE’S MOVEMENTS WORLDWIDE ARE LINKING HUMAN RIGHTS AND NATURE’S RIGHTS

Civil society worldwide also has begun to embrace the importance of rights of nature, particularly as important to advancing other human rights, including the human right to water. For example, the Final Declaration of NGOs and other civil society stakeholders at the “Rio +20 People’s Summit” called on the “governments and people of the world to adopt and implement the Universal Declaration of the Rights of Mother Earth.”²¹

In addition, the civil society water summit at Rio +20 (the “Rio +20 Blue Pavilion”), as well as the 2012 Alternative World Water Forum in Marseille, both issued declarations in support of both the rights of waterways and human rights to water, seeing them as mutually essential.²² Both

¹⁷ UDRME, *supra* n. 14, Art. 1(4).

¹⁸ UN, “Interactive Dialogue on Harmony with Nature” (20 April 2011), available at: www.un.org/en/ga/president/65/initiatives/HarmonywithNature.html.

¹⁹ See summaries of and texts for these ordinances online at www.celdf.org and <http://www.earthlawcenter.org/earth-community/>.

²⁰ City of Pittsburgh Legislative Information Center (1 Dec. 2010), available at: <http://pittsburghpa.gov/lic/>, and also at: http://earthlawcenter.org/static/uploads/documents/Marcellus_Shale_Ord_Pittsburgh_1.pdf.

²¹ Available at: <http://cupuladospovos.org.br/wp-content/uploads/2012/07/FinalDeclaration-ENG.pdf>.

²² Blue Pavilion, People’s Summit “Declaration: Rio de Janeiro, Brazil” (21 June 2012), available at: http://earthlawcenter.org/static/uploads/documents/Final_Declaration_Blue_Pavilion_English2.pdf; Alternative World

declarations called specifically for recognition of the rights of nature, and for preservation of hydrologic cycle integrity in the context of the rights of ecosystems and species to exist, thrive, and reproduce. The both strongly agreed that “water is a commons, not a commodity,” and opposed the “dominant economic and financial model that is in favour of privatizing and commoditizing water.” Finally, the civil society signatories signaled the need for local, alternative and sustainable water solutions to meet human needs, consistent with economic systems that guarantee well-being for communities over “maximum individual wealth and over-inflated profits for business and finance.”

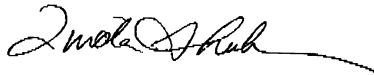
Through such agreements, civil society has begun coordinated movements calling for integrated, rights-based environmental strategies that address the needs and rights of both people and environment. Recognition and implementation of the rights of nature through the SDG process would help strengthen and broaden these civil society efforts.

* * *

We have a unique opportunity now to adopt Earth-based SDGs that commit to recognizing in law the inherent rights of both people and nature. Such SDGs are essential to guide us in achieving “sustainable communities” that reflect our interconnectedness with, and dependence on, the Earth’s natural systems. Earth Law Center accordingly seeks the support of the Major Groups in advancing the rights of nature throughout the Sustainable Development Goals process.

We appreciate the opportunity to submit these comments.

Sincerely,



Linda Sheehan
Executive Director
lsheehan@earthlaw.org