



## Towards a Universal Declaration of Planetary Rights

### Introduction

#### Our future

Imagine a world where the rivers run clear, the fish are abundant, the skies are unpolluted, the soils are untainted by pesticides, the trees grow strong and healthy, the food on all our table is fresh, local and organic, the fuel to heat, light and transport us is clean and ever-renewable. Man-made pollution, seen and unseen, no longer exists.

Such a world is ours for the making. This could be our reality. We can have all this – and more: a world of peace, prosperity and happiness, one based on interconnectedness, trust and caring for the planet. One where we recognise, respect and uphold our interdependency as part of the greater Earth community.

#### Our present

At this point in time we are standing at the precipice, peering over at the crumbling of conventional institutions, the collapsing of our economic pillars, the draining off of the last remaining drops of our viable fossil fuel resources. A world built on the premise of continual growth and extraction with scant regard to the consequences. Our laws have helped create this world of disconnect, and so it is that law, as one of the tools we have to hand, must also be put to constructive use to ensure we remedy the situation. The time has now come to implement a Duty of Care for the planet; a time to recognise and uphold the inherent rights of nature, to create the necessary counterbalance for our human-centric laws that have led to our current crisis. The evidence is clear: our existing laws are now proving to be inherently unsustainable.

#### Laws as consciousness shaping tools

Our laws are built on the premise that humans have superior rights to the planet. It is our laws that have given us the right to take and to pollute so extensively, so much so it is now considered our norm. The concept of Earth as a living organism has been forsaken, instead replaced with the belief that it is but a resource to be plundered at will. As a consequence the imbalance in our ecosphere is now so great that it is threatening to destabilise all of earth and mankind. We have to redress the imbalance, to ensure the scales of ecological justice are in equilibrium once again. After all, our commonality is the earth we walk on, the soil that feeds our plants, the trees that provide shelter and warmth, the air that we breathe.

Law shapes our societies, our way of thinking, our behaviour. By imposing upon nature the concept of it being property, legal systems have legitimised and encouraged the abuse of Earth by humans.

Such is the crisis we face we now recognise the need to protect and to ensure that such protection is effective and global in application. For that we need the use and support of laws. Much as a voluntary code is useful and even desirable, we know from past experience that leaving corporations to implement their own voluntary codes in reality achieves little of true substance. It is the implementation of national and international laws such as a Declaration of Planetary Rights that will embed the recognition of the inherent rights of nature and provide the powerful shift in consciousness that is required.

Polly Higgins, London, January 2009



### **Disconnect leads to destruction**

The major environmental problems facing global society today (e.g. climate change, peak oil, accelerating extinction rates, the loss of soil fertility and the depletion of freshwater resources) are often addressed as distinct issues whereas they are all symptoms of the same root problem. The human societies that dominate the contemporary world are destroying the capacity of natural systems to support civilisation. The ability of humans to alter ecosystems in a manner that creates progressively more favourable conditions for the survival of our progeny has played a major role in the success of our species. Today it is clear that the misuse of this ability is drastically reducing the prospects for future generations of humans and other species and that contemporary institutions are not only failing to prevent this, but often facilitate and legitimise this destructive behaviour. This means that what manifests as environmental problems and related social problems (e.g. wars for control over oil) are symptoms of dysfunctional governance problems. Unlike the social structures of many indigenous societies, the dominant cultures in the world today do not have effective means of ensuring that humans do not destroy the ecosystems on which those cultures and societies (and many other life forms) depend. Developing such means is arguably the most fundamental and urgent challenge of our times.

### **Earth Jurisprudence**

The term “governance” is used here in a very broad sense to encompass all methods used by humans to self-regulate their individual and collective behaviour. It involves both an interior dimension (e.g. personal and cultural values, world-views and ethics) and an exterior dimension (e.g. laws, institutions, the economy). Since both the interior and exterior dimensions play key roles in determining how humans behave, and are inter-related, both must be addressed simultaneously to successfully address challenges such as climate change. For example, an interior shift in world view and ethics is necessary to produce the impetus that will drive changes in external structures such as legal and political systems, while changes in the latter will establish new social norms that facilitate further shifts in the internal dimension.

One of the most fundamental shifts that must occur has been characterised by writers such as David C Korten as a shift from “Empire to Earth Community”.<sup>1</sup> Whatever terms are used, it is clear that symptoms such as climate change will not disappear until humans recognise that we need to abandon our imperialist ambitions to control and dominate nature in order to extract the maximum “resources” for human consumption, and begin to act in accordance with the reality that we are an integral and inseparable part of a wider community of life on Earth. We can only prosper by recognising that the maintenance of healthy reciprocal relations with all other members of the community within which we have co-evolved is fundamental to our survival, health and well being. As Thomas Berry observes “you cannot have healthy people on a sick planet”.

### **Wild Law in action**

This means that addressing issues such as climate change requires fundamental change both in the internal world views of many peoples and in the external structures of society. We must re-design the legal, political and institutional structures of society so that their primary purpose is to facilitate and guide people to live in a way that both benefits humans and contributes to the health of the whole Earth Community. Law is central to this and rights are central to the functioning of contemporary legal systems. This means that a necessary implication of this approach outlined above (“Earth jurisprudence”) is that we must begin to recognise that legal rights must be extended both to other-than-human members of Earth communities and to future generations in order for legal systems to work effectively in the interests of the whole community.

An international campaign to recognise the rights of all the members of the Earth Community and of future generations would simultaneously make a major contribution both to shifting norms within the international community, nations and individuals (i.e. within the internal dimension) and provide a basis for developing laws and institutions to give effect to this perspective (i.e. in the external dimension). In order to avoid violating the rights of other members of the Earth Community humans will have to articulate new social goals and modes of living at the personal, local, national and international levels. For example, in Ecuador an important corollary to the right for nature in the Constitution is the constitutional imperative to promote “the good life”. This is understood not by reference to standards of consumption or per capita GDP but by reference to indigenous concepts which emphasise the importance of fertile land, clean water and air and community and determinants of a good life.

Restructuring governance systems so that they are adequate to meet contemporary challenges will require an evolutionary leap. Recognising rights that prioritise the maintenance of the whole community is now essential to supplement and contextualise individual human rights. Just as we have recognised that “first generation” human rights like liberty have little meaning in the absence of “second generation” socio-economic human rights like a right to shelter and food, so we must now recognise that these rights are unattainable or unsustainable without recognising and protecting the “rights” of Nature on which they depend. Human rights are meaningless and unattainable in a severely degraded environment.

**Cormac Cullinan, Cape Town, January 2009**

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<sup>1</sup> See Korten, David, C “The Great Turning. From Empire to Earth Community.” 2006

## Practical Steps

### Towards a Universal Declaration of Planetary Rights

There is no unifying code, no global precept in existence that enunciates the Rights of the Planet. There are over 200 items of legislation that refer to the duties and responsibilities of humans towards the planet and nature (most recently the Earth Charter's 'social document' in 2000), but no soft or hard legal precept provides a fully defined set of corresponding rights (Ecuador's recent Bill of Nature voted in on 28th September 2008 takes initial steps in this direction). Without these rights, the argument in favour of protecting Nature cannot be properly presented. Just as we now recognise the rights of a child, and have the corresponding ability to call for the adherence of those rights on the child's behalf, so it is now required that we can act on complaints about planetary rights' violations.

### Presentation to the United Nations

On the 6th November 2008 Polly Higgins, barrister and UK Associate of EnAct International, was invited by the United Nations to address them on the concept of a Universal Declaration of Planetary Rights. Her area of expertise in international renewable energy law had led to her extensive research into Earth Jurisprudence which had resulted in her recognition for the need for proactive international legislation and the conclusion that a Universal Declaration of Planetary Rights is now required.

### Timing

● UN: Gro Brundtland and Maurice Strong, who co-organised the 1972 UN conference in Stockholm and co-chaired the 1992 Rio Earth Summit, are planning another UN Earth Summit within 4 years time, in 2012. The goal of this conference is to consolidate and codify environmental precepts into binding global statutes. A Universal Declaration of Planetary Rights would be in place in advance of the Summit, to ensure its' rightful place at the centre of the decision to create 'hard law' from the existing 'soft law' Declarations. This leaves little time to act now to ensure such a declaration is embedded beforehand.

● Science: Jim Hansen, climatologist and Director of NASA, asserts we have only 4 years left to act on Climate Change, and that we now have a very small window of opportunity. Carbon trading, he affirmed, has failed. In July 2008 Hansen called for international legislation to protect the planet, declaring the production of man-made fossil fuel emissions to be crimes against humanity and nature.

● Enforcement: The equivalent of an International War Crimes Tribunal for the environment, an International Environment Court/Agency to pursue breaches, ensure accountability, enforce the Universal Declaration of Planetary Rights and implement effective restorative justice apparatus. Such a mechanism of enforcement will be explored in tandem with the drafting of the Declaration.

### Time line

- Sponsors to be identified and secured within next 6 months;
- Presenting to the General Assembly before the end of 2009;
- UN committee drafting etc, 2009 - 2011;
- adoption of a Universal Declaration of Planetary Rights in late 2011;
- 2012 UN Earth Summit codifies Universal Declaration of Planetary Rights as binding global statute and International Court of the Environment is initiated.

## About EnAct International

EnAct International was founded by Cormac Cullinan in London in 1993 and now has its headquarters in Cape Town South Africa. EnAct's core business is advising on designing and developing governance systems that will be required to build sustainable communities. We have worked in many countries in Europe, Africa, South America and Asia on a wide-range of environmental governance issues ranging from advising on institutional reforms to drafting and negotiating municipal, provincial and national laws and international treaties.

**Cormac Cullinan's** seminal 2002 book *Wild Law. A Manifesto for Earth Justice* built on the work of the philosopher Thomas Berry and proposed a new Earth-centred approach to law and governance ("Earth Jurisprudence". This approach is rapidly gaining momentum in the USA, United Kingdom, Africa and in the Andean region of South America as issues such as climate change expose the limitations of contemporary approaches to governance. Cormac's work in this regard led to his inclusion in *Planet Savers. 301 Extraordinary Environmentalists* which profiles people throughout recorded history who have made an inspiring contribution to protecting Earth.

**Polly Higgins** was called to the UK Bar in 1998. Her primary area of expertise was company and employment law, with an extensive practice in the laws of Discrimination. In 2006 she moved into advisory work for Trans-Mediterranean Renewable Energy Co-operation (**TREC-UK**), advising and lobbying on EU and international legislative frameworks for upcoming renewable energy policies. Through her work with TREC, Polly began to recognise that a Duty of Care is required for the planet. To that end she has become a vociferous spokesperson of Earth Jurisprudential principles, working with EnAct International to promote wide-scale adoption and recognition.

Polly is a founder member of the **DESERTEC Foundation**, and sits on their Supervisory board to advise on the ethical and environmental implementation of clean electricity from desert solar plants and expansion of the EUMENA supergrid network in accordance with Earth Jurisprudence principles. Polly is also founder of **Wise Women**, an international network for women in sustainability and the environment, and an Ambassador for the **999 It's Time** campaign.

Polly is spearheading the campaign to encourage the United Nations to implement a Universal Declaration of Planetary Rights. To read more about the online campaign, visit [treeshaverightstoo.com](http://treeshaverightstoo.com).

**Polly Higgins & Cormac Cullinan**  
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## Contact details



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