

Highlights of the Conference of Judges and Prosecutors on Water Justice 8th World Water Forum



More than 140 judges, prosecutors, diplomats, law professors, scientists, and experts from over 60 countries convened in Brasília, Brazil on 19-21 March 2018 at the [Conference of Judges and Prosecutors on Water Justice](#) during the [8th World Water Forum](#).

[The Conference of Judges and Prosecutors on Water Justice](#) convened from 19-21 March 2018 at the 8th World Water Forum. This marked the first time a specific high-level segment was devoted to underlining the role of judges and prosecutors in the conservation of freshwater resources. As part of the Political Process of the Forum, the Conference attracted hundreds of participants to gain insight into the application and development of legal solutions to confront environmental challenges and achieve “water justice.” Overall, the 8th World Water Forum was [the largest edition in its history](#), hosting more than 10,600 participants over the course of seven days and 300 sessions.

Through the Conference of Judges and Prosecutors organized by WCEL, experts presented a robust dialogue on the most recent advances in jurisprudence, legislation, public policy, and

academia on water law issues over the three days of the Conference through a series of high-level keynote addresses, thematic panels, and roundtable discussions. WCEL organized a joint session with parliamentarians that brought together different branches of government, bringing attention to the need for improvements in water law. WCEL also presented the 1st WCEL International Water Justice Moot Court and a multi-stakeholder dialogue on the Global Pact for the Environment.

The Conference culminated in creation of the "[Brasilia Declaration of Judges on Water Justice](#)," which provides a set of ten guiding principles on the legal protection of water and water ecosystems. WCEL and its partners, including the [Ministry of Foreign Affairs of Brazil](#), the [Ministry of Environment of Brazil](#), the [World Water Council](#), [UN Environment](#), the [Organization of American States](#), and the [Global Judicial Institute on the Environment](#), are very proud of this innovative collaboration that resulted in new shared experiences and highlighted best-practices for the protection of freshwater around the world.

The National [High Court of Brazil-STJ](#) also hosted the [1st Meeting of the Interim Governing Committee \(IGC\) of the Global Judicial Institute on the Environment](#) (GJIE), which met from 17-18 March. The historic GJIE meeting continued the formation of the Institute's governance by gathering leading judges and partners to decide on the Institute's framework, registration as an international association in Geneva, establishment of a secretariat, and membership process. The GJIE Members also contributed to the inaugural lectures in the "WCEL Environmental Law Video Lectures Series;" agreed to establish a website and legal information database to support education and communication among members; engaged in wider discussions on the proposed [Global Pact for the Environment](#) moving forward under the auspices of the United Nations; and reviewed the draft "[Brasília Declaration of Judges on Water Justice](#)" to be finalized during the Conference.

Day 1 - 19 March 2018

Welcoming Remarks

The following speakers opened the Conference of Judges and Prosecutors on Water Justice on 19 March 2018:

- **Lord Robert Carnwath** (Supreme Court of the United Kingdom and Member, Interim Governing Committee, Global Judicial Institute on the Environment) noted that the establishment of the Global Judicial Institute on the Environment (GJIE) and the first meeting of its Interim Governing Committee in Brasília on 17-18 March 2018 are events of great significance and potential for increasing cooperation around the world.
- **Raquel Dodge** (Attorney General of Brazil) articulated that Brazil is thirsty for justice, and like water, everyone needs it. In commemoration of Marielle Franco, the elected city councilor of Rio de Janeiro murdered on 14 March, she highlighted the power women have to fight for justice that includes a guarantee of water as human right for all.

- **Arnold Kreilhuber** (Deputy Director, Environmental Law Unit, UN Environment) commended the judges and prosecutors gathered in Brasília for their dedication to furthering dialogue on how to protect water as a precious and finite resource. He acknowledged the need for high quality water in large enough quantities as a common requisite for of all humanity and called the Brasília Declaration a milestone that celebrates the crucial role of judges and prosecutors to err on the side of water conservation to mitigate environmental damage, biodiversity loss, and climate change.
- **Claudia de Windt** (Senior Legal Specialist and Chief Environmental Law, Policy and Good Governance, Department of Sustainable Development, Organization of American States – OAS) remarked that work under OAS has emphasized water as a human right that unites the region and requires constant dialogue and cooperation. She commented that judges and prosecutors as the first line of defense to resolve conflicts.
- **Maria Do Rosário Araújo Velano** (Rector, Universidade José do Rosário Vellano - UNIFENAS) expressed that challenges to critical freshwater resources have impacts at all levels of governance; thus, her university underlines interdisciplinary solutions to global problems. UNIFENAS will partner with WCEL and GJIE to open an international institute on ethical principles for the environment.
- **Roberto Carvalho Veloso** (President, Brazilian Association of Federal Judges – AJUFE) noted that water and justice are closely related and water-related conflicts have potential to grow at all levels. It is vital for the Forum to draw focus on increasing integration of legal systems across South America.
- **Jayme de Oliveira** (President, Brazilian Association of Judges – AMB) highlighted that the judicial branch and related institutions have a duty to act to protect water and water-related resources. The creation and enforcement of environmental law is a stopgap for human survival.
- **Zhang Xinsheng** (President, International Union for the Conservation of Nature – IUCN) brought attention to the fact that the Conference offered the opportunity for a deeper level of dialogue to advance freshwater protection. IUCN will continue to emphasize the crucial role of judges and prosecutors at the forefront of water governance with the Brasília Declaration as guidance.
- **Judge Cristina Crespo** (Honorary President, International Association of Judges) reflected on the importance of judicial independence and training to create a culture that regards water as a human right and public good.

Opening Keynote Addresses

Justice Ragnhild Noer (Supreme Court of Norway and Member, Interim Governing Committee, Global Judicial Institute on the Environment) chaired the session with the following speakers:

- **Justice Cármen Lúcia Antunes Rocha** (Chief Justice of Brazil – STF) brought attention to the coincidence of 19 March being marked in Brazil as “the day of the floods of the guava trees” when floods used to sweep away the fruits. She noted that today, however, the effects of climate change have produced droughts. Water has never been

as precious as now. Recounting experiences from her education that one should always share water and water should be equal for all, she articulated that nature is enraged and the judiciary must guarantee ecological integrity for future generations. The Chief Justice expressed, “God forgives, man forgives sometimes, but water never forgives.”

- **Justice Ricardo Lorenzetti** (Chief Justice, Supreme Court of Argentina and Member, Interim Governing Committee, Global Judicial Institute on the Environment) articulated that water conservation issues are basically a conflict over shortages, where both the resource and justice are equally scarce. Focusing on the recent judgement in the conflict over the River Atuel in Argentina, he called for jurisprudence that considers new ways of approaching solutions to environmental and water-related issues. He outlined lessons learned when moving from an anthropocentric to a “multicentric” approach to adjudicate water as a public and collective good:
 - 1) All stakeholders must be involved before taking a decision, and such processes should be created where they do not exist;
 - 2) Judicial rulings can no longer only rely on what happened in the past but must consider adapting to situations of conflict in the future; and
 - 3) Individual rights to water can be restricted by collective rights to ecological functions, so there is a need to balance water use with supply.

Panel I: Water Justice and the Environmental Rule of Law

Co-Chairs **Justice João Otávio de Noronha** (National High Court of Brazil – STJ) and **Justice Damaris Vargas Vasquez** (Supreme Court of Costa Rica) introduced the panel with speakers:

- **Michel Prieur** (Professor Emeritus, University of Limoges, and President, International Center of Comparative Environmental Law – CIDCE); and
- **Justice Antonio Herman Benjamin** (National High Court of Brazil – STJ; Chair, IUCN World Commission on Environmental Law; and Member, Interim Governing Committee, Global Judicial Institute on the Environment).

Water Justice High-Level Opening Plenary – Water and Sustainable Development: Challenges to Law, Policy, and Peace

Sheila Abed (Former Minister of Justice of Paraguay, WCEL Chair Emerita) opened the session. Speakers included:

- **Justice Roberto Caldas** (Judge and Former President, Inter-American Court of Human Rights); and
- **Erik Solheim** (Executive Director, UN Environment).

Exchange of Letters for the GJIE Secretariat

All members of the Interim Governing Committee of the Global Judicial Institute on the Environment present in Brasília participated in the exchange of letters between the Institute and UN Environment to work towards formal establishment of the GJIE Secretariat under the auspices of UN Environment.

Presentation of the Draft “Brasília Declaration of Judges on Water Justice”

Justice Michelle Weekes (High Court of Barbados and Member, Interim Governing Committee, Global Judicial Institute on the Environment) and **Justice Michael Wilson** (Supreme Court of Hawai’i and Member, Interim Governing Committee, Global Judicial Institute on the Environment) co-chaired this session. Speakers included:

- **Justice Michael Hantke Domas** (Chief Justice, Third Environment Court of Chile);
- **Owen McIntyre** (Professor, School of Law, University College Cork and Chair Emeritus of the WCEL Water and Wetlands Specialist Group);
- **Arnold Kreilhuber** (Deputy Director, Environmental Law Unit, UN Environment);
- **Justice Brian Preston** (Chief Judge, Land and Environment Court of New South Wales and Member, Interim Governing Committee, Global Judicial Institute on the Environment);
- **Justice Emmanuel Ugirashebuja** (President, East African Court of Justice and Member, Interim Governing Committee, Global Judicial Institute on the Environment); and
- **Claudia de Windt** (Senior Legal Specialist and Chief Environmental Law, Policy and Good Governance, Department of Sustainable Development, Organization of American States – OAS).

Water Justice: The Forum Organizer’s Perspectives

Christianne Dias Ferreira (President, National Water Agency of Brazil – ANA) opened the session. Speakers included:

- **Minister José Sarney Filho** (Minister of the Environment of Brazil); and
- **Senator Jorge Viana** (Coordinator, Parliamentary Subprocess).

Input to the Draft Brasília Declaration of Judges on Water Justice

This event hosted High-Level Judicial Roundtables to gather input from the esteemed judges present at the meeting. **Justice Swatanter Kumar** (Chairperson, National Green Tribunal, India and Member, Interim Governing Committee, Global Judicial Institute on the Environment) and **Justice Zukisa Tshiqi** (Supreme Court of South Africa), who welcomed 18 colleagues’ contributions, co-chaired the first roundtable. **Justice Gloria Ortiz** (Deputy President, Constitutional Court of Colombia) chaired the second roundtable, which included contributions from over 15 colleagues.

Day 2 – 20 March 2018

Panel 2: Water Justice and Climate Change

Kunzang (Deputy Chief Legal Officer, National Environmental Commission of Bhutan) and **Justice Modeste Randrianantenaina** (President of the Supreme Court of Madagascar) co-chaired the session. Speakers included:

- **Grethel Aguilar** (Director, IUCN Regional Office for Mesoamerica and the Caribbean);
- **Hakan Tropp** (OECD Water Governance Programme);
- **Stefano Burchi** (Executive Chairman, International Association for Water Law – AIDA);
- **Carlos Durigan** (Director, Wildlife Conservation Society Brazil – WCS); and
- **Justice Michael Wilson** (Supreme Court of Hawai'i and Member, Interim Governing Committee, Global Judicial Institute on the Environment).

Parallel Sessions for Judges and Prosecutors

All attending judges discussed “Water Justice and Global Judicial Institute on the Environment” with the current Interim Governing Committee. A total of forty-six judges joined GJIE during the 8th World Water Forum.

Raquel Dodge (Attorney General of Brazil) chaired a roundtable discussion with the prosecutors present at the Forum to prepare the “Brasília Declaration of Prosecutors on Water Justice” and reported on preparations for the “Global Institute of Prosecutors for the Environment.”

Joint Session of Legislators, Judges and Prosecutors

Senator Jorge Viana (Coordinator, Parliamentarian Subprocess) and **Raquel Dodge** (Attorney General of Brazil) co-chaired the joint session, “Designing Better Environmental and Water Laws.” Speakers included:

- **Minister Gustavo do Vale Rocha** (Interim Minister of Human Rights of Brazil);
- **Justice Ricardo Lorenzetti** (Chief Justice, Supreme Court of Argentina and Member, Interim Governing Committee, Global Judicial Institute on the Environment);
- **Congresswoman Sophie Auconie** (National Assembly of France and President, French Water Society);
- **Senator Cristovam Buarque** (Federal Senate of Brazil);
- **Manoel Sobral Filho** (Director, United Nations Forum on Forests Secretariat);
- **Minister Marina Silva** (Former Senator and Minister of the Environment of Brazil);
- **Congressman Pedro Soares** (President, Environmental Commission, Assembly of the Republic of Portugal);
- **Arnold Kreilhuber** (Deputy Director, Environmental Law Unit, UN Environment);
- **Stefano Burchi** (Executive Chairman, International Association for Water Law – AIDA);
- **Ricardo Andrade** (Executive Director, 8th World Water Forum and Director, Brazilian National Water Agency – ANA); and
- **Justice Antonio Herman Benjamin** (National High Court of Brazil – STJ; Chair, IUCN World Commission on Environmental Law; and Member, Interim Governing Committee, Global Judicial Institute on the Environment)

Parallel Multidisciplinary Panels

The day finished with two parallel panels:

1) Panel 3: Water Justice and Ecosystems: Scientific, Ethical, Legal, and Policy Perspectives

Aban Marker Kabraji (Director, Asia Regional Office, IUCN) and **José Pedro de Oliveira Costa** (Secretary of Biodiversity, Ministry of the Environment of Brazil) co-chaired this session, which featured:

- **Denise Antolini** (Professor of Law and Associate Dean for Academic Affairs, William S. Richardson School of Law, University of Hawai'i and Deputy Chair, IUCN World Commission on Environmental Law);
- **Justice Michael Hantke Domas** (Chief Justice, Third Environment Court of Chile);
- **Alejandro Iza** (Director, IUCN Environmental Law Center);
- **Jennifer Mohamed Katerere** (Senior Consultant and Researcher in Human Rights and Environmental and Natural Resource Governance); and
- **Ayman Rabi** (Executive Director, Palestinian Hydrology Group).

2) Panel 4: Water Justice and Forests: Scientific, Ethical, Legal, and Policy Perspectives

Raul Telles do Valle (Chair, WCEL Forests Specialist Group) and **Marcio Dionisio** (IUCN Representative to Brazil) co-chaired the panel, which featured:

- **Braulio Ferreira de Souza Dias** (Professor, University of Brasilia and Former Executive Secretary, Convention on Biological Diversity);
- **Karin Krchnak** (Program Manager, The World Bank Group 2030 Water Resources Group, and Former Director, WWF Freshwater Program);
- **Alejandra Rabasa** (Senior Specialist, Environmental Law Institute – ELI);
- **Alvaro Vallejo Rendon** (Director, IUCN South America Regional Office); and
- **Christina Voigt** (Chair, WCEL Climate Change Specialist Group).

Day 3 – 21 March

Panel 5: Water Justice, Enforcement, and the Role of Environmental Courts and Public Prosecutors

Ivana Farina Navarrete Pena (Former Attorney General, State of Goiás and Human Rights and Collective Defense Secretary, National Council of Prosecutors) and **Justice Kuenlay Tshering** (Supreme Court of Bhutan) co-chaired the panel. Speakers included:

- **Silvia Cappelli** (Senior Environmental Prosecutor and Former President, Latin American Network of Environmental Public Prosecutors);
- **Justice Ricardo Cintra Torres de Carvalho** (President, Environmental Law Chamber, Supreme Court of São Paulo);
- **Justice Swatanter Kumar** (Chairperson, National Green Tribunal, India and Member, Interim Governing Committee, Global Judicial Institute on the Environment);
- **Justice Samson Okong'o** (Presiding Judge, Environment and Land Court of Kenya); and

- **Justice Brian Preston** (Chief Judge, Land and Environment Court of New South Wales)

Presentation of the “Brasilia Declaration of Judges on Water Justice”

The Brasília Declaration of Judges and Water Justice was the result of rigorous discussion and expert contributions made during a five-month process that began with consultations among an expert scientific drafting committee. Consultations expanded to videoconference discussions with leading representatives of the GJIE and in-person drafting sessions continued with final input fielded from judges attending the 8th World Water Forum. The Declaration was a major contribution to the 8th World Water Forum, presenting a set of guiding principles for the utilization, management, and protection of all forms of fresh water resources.

Session co-chair **Denise Hamu** (UN Environment Representative to Brazil) recognized the fundamental role of water in society and the public demand for judiciaries to resolve issues related to water resources. The Forum’s inclusion of judges and prosecutors is an important step forward in understanding the role of the law in the conservation of freshwater, and the Brasília Declaration of Judges on Water Justice will be fundamental in coalescing dialogue and action. Co-chair **Denise Antolini** (Professor of Law and Associate Dean for Academic Affairs, William S. Richardson School of Law, University of Hawai’i and Deputy Chair, IUCN World Commission on Environmental Law) praised the incredible work of the scientific drafting committee and the inclusive process buoyed by good will and a deep sense of the importance of the Declaration. The Brasília Declaration breaks through a glass ceiling by reflecting consensus across all continents and activating the Global Judicial Institute on the Environment. She added that GJIE gives judges a voice by providing tools that can be activated across the environmental law community and form a basis for a common conversation. Additional speakers included:

- **Claudia de Windt** (Senior Legal Specialist and Chief Environmental Law, Policy and Good Governance, Department of Sustainable Development, Organization of American States – OAS) expressed her enthusiasm for the expansive process and careful consideration of every point leading to the Declaration. She added that the value of the ten principles lies in their specificity to assist individual judges.
- **Justice Ragnhild Noer** (Supreme Court of Norway and Member, Interim Governing Committee, Global Judicial Institute on the Environment) emphasized that we need nature as nature does not need us. The ten principles put the legal implications of this statement into practice by inspiring work and reiterating the importance of independent courts.
- **Justice Michelle Weekes** (High Court of Barbados and Member, Interim Governing Committee, Global Judicial Institute on the Environment) endorsed the rigorous consultation process and expressed her excitement over reaching approval of the Declaration. She commended providing general principles that can be applied to current and future challenges and encouraged judges in the audience to use the declaration as guidance when upholding the importance of water justice.

- **Justice Brian Preston** (Chief Judge, Land and Environment Court of New South Wales and Member, Interim Governing Committee, Global Judicial Institute on the Environment) indicated that the Declaration is a seminal step in moving ideas to principles in practice.
- **Justice Michael Hantke Domas** (Chief Justice, Third Environment Court of Chile) concurred that the Declaration is a tool for all judges to make informed and fair decisions about the interrelationship of ecosystems and human society.
- **Justice Michael Wilson** (Supreme Court of Hawai'i and Member, Interim Governing Committee, Global Judicial Institute on the Environment) noted that the principles of the Declaration are everyone's principles to promote equity and sharing of freshwater and ecosystems for the benefit of future generations. The principles are courageous in taking a stance to stand together and recognize that the enduring human spirit and beauty of nature are intertwined.
- **Arnold Kreilhuber** (Deputy Director, Environmental Law Unit, UN Environment) reiterated that the Declaration and its principles already have real-life applications and impacts, and implementation can lead to a more fair and just society that equally distributes environmental burdens and benefits.
- **Justice Antonio Herman Benjamin** (National High Court of Brazil – STJ; Chair, IUCN World Commission on Environmental Law; and Member, Interim Governing Committee, Global Judicial Institute on the Environment) highlighted the inclusion of principles on *in dubio pro aqua*, the ecological function of property, and water as a public interest good all of which place water as the foundation of life. He congratulated everyone for their meaningful contributions to the Conference and the planet and officially announced approval of the Brasília Declaration of Judges on Water Justice.

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Invitation to the 9th World Water Forum in Dakar (Senegal)

Justice Mamadou Camara (President of the Supreme Court of Senegal) announced Dakar as the host of the next World Water Forum in 2021. Citing his country's leadership at UN level debates on advancing water security and joining the UN Secretary-General's High Level Panel on Water, Justice Mamadou Camara acknowledged that water issues are a global concern that decision-makers are confronting across Senegal. He congratulated the Conference on adopting the Brasília Declaration and invited all in attendance to continue progress at a subsequent gathering of judges and prosecutors at the 9th World Water Forum.

Closing High-Level Plenary – Water Justice: Present and Future Challenges

Justice Laurita Vaz (Chief Justice, National High Court of Brazil – STJ) chaired the closing session and introduced keynote speaker Raquel Dodge (Attorney General of Brazil) as a champion of building reliable and effective legal frameworks for access to justice and the protection of the environment. **Attorney General Raquel Dodge** thanked everyone in attendance for their contributions during the Forum. She considered the principles contained in the Brasília Declaration as putting forward legal solutions to problems and supporting judicial responses to

domestic challenges based on established principles of international environmental law. She announced that the parallel meeting of prosecutors the day before agreed to a sister “Brasília Declaration of Prosecutors on Water Justice” as a way to communicate strongly and broadly the intentions of working together for freshwater conservation and environmental protection as a whole under the newly formed "Global Institute of Prosecutors for the Environment."

Closing of the Conference of Judges and Prosecutors on Water Justice

Ambassador Jose Antonio Marcondes de Carvalho (Chief Environment Negotiator of Brazil, Deputy-Minister of Foreign Affairs for the Environment, Energy, Science and Technology) commended the innovative Conference for bringing together the expertise of judges and prosecutors at the 8th World Water Forum. He emphasized the fundamental role of judges in providing the foundation for the rule of law and jurisprudence in a world that is suffering from little protection of resources that now demand management for fulfilling the human right to access to drinking water and basic sanitation. The Ambassador congratulated all participants for their inspiring contributions and wished them a safe journey with the parting words: “Without water there is no life, what is our planet?”

Following conclusion of the Conference, WCEL held two special sessions in the afternoon:

- 1) [Discussions on the current initiative to reach agreement on a Global Pact for the Environment at the United Nations](#)
- 2) [The 1st WCEL International Water Justice Moot Court](#)