IUCN Environmental Law Programme

– The Year in Review 2016 –

Prepared by: IUCN Environmental Law Centre and IUCN World Commission on Environmental Law
INTRODUCTION

The International Union for Conservation of Nature (IUCN) is a membership Union uniquely composed of both government and civil society organizations. It provides public, private and non-governmental organizations with the knowledge and tools that enable human progress, economic development and nature conservation to take place together.

Created in 1948, IUCN has evolved into the world’s largest and most diverse environmental network. It harnesses the experience, resources and reach of its 1,300 Member organizations and the input of some 15,000 experts. The members of IUCN are represented in the Council – the governing body. Headquartered in Switzerland, the IUCN Secretariat comprises 1,000 staff in 45 countries.

The IUCN Environmental Law Programme (ELP) comprises the World Commission on Environmental Law (WCEL) and the Environmental Law Centre (ELC), which collaborate in their endeavours with the IUCN Academy of Environmental Law.

The mission of the ELP is to advance environmental law through the development of legal concepts and instruments, and to facilitate the use of environmental law as a tool to influence, encourage and assist societies throughout the world to conserve the integrity and diversity of nature and to ensure that any use of natural resources is equitable and ecologically sustainable. The ELP is an integrated programme of activities that assists decision makers with information, legal analysis, advisory services, legislative drafting, mentoring and capacity building at national, regional and global levels.

The WCEL is a network of environmental law and policy experts from all regions of the world who volunteer their knowledge and services to IUCN activities, especially to those of the IUCN Environmental Law Programme. As of the end of 2016, WCEL had over 1,400 members, including judges, prosecutors, government attorneys, private attorneys, law professors, and others engaged in the delivery of the Commission’s mission and work.

The ELC is a programme unit of the IUCN secretariat. It coordinates the promotion of environmental law as a tool for sustainable development and resource governance. It acts as the secretariat for the WCEL, and works in collaboration with the whole of IUCN, together with many other partners from around the world. The ELC also houses an extensive library of environmental law holdings and is the management unit for ECOLEX, ‘The Gateway to Environmental Law’ (www.ecolex.org), a web-based information system operated as a joint initiative of the Food and Agriculture Organization of the United Nations (FAO), IUCN and the United Nations Environment Programme (UNEP).

2016 was a year of active and fruitful engagement of the ELP in various events concerning international environmental governance, including the 1st World Environmental Law Congress held in Rio de Janeiro, Brazil, the IUCN World Conservation Congress held in Hawaii, USA, and the Conference of the Parties to the Convention on Biological Diversity held in Cancun, Mexico. A new IUCN Programme 2017-2020 adopted by the IUCN World Conservation Congress will guide its work in the coming four years.
(A) Environmental Law Centre (ELC)

IUCN works under the principle that nature conservation and human progress are not mutually exclusive. Facing tremendous forces of transformation such as climate change and dramatic socioeconomic inequality across the world, there are credible and accessible political, economic, cultural and technological choices that can promote general welfare in ways that support and even enhance our planet’s natural assets.

To inform these choices, IUCN has been aligning conservation efforts all over the world around three programme areas of work: valuing and conserving nature’s diversity, advancing effective and equitable governance of the use of nature, and deploying nature-based solutions to climate, food and development challenges. The approach that is emerging from its collective efforts demonstrates that nature is not an obstacle to human aspirations, but rather an essential partner, offering valuable contributions towards all our endeavors.

Programme Area 1: Valuing and Conserving Nature

Valuing and conserving nature is the heartland and at the core of IUCN’s work, with clear and strong mandates. Under this Programme Area, IUCN addresses the issues of valuing biodiversity (both the tangible and intangible values of nature), threatened species and habitats, species conservation and protected areas, including those listed as World Heritage sites, and ensuring that the use of natural resources is sustainable.

(i) Wildlife Trade

Environmental crime has become the fourth largest crime at the global level. Illegal wildlife trade itself is today worth an estimated US$ 7 to 23 billion per year, which represents critical loss of revenue for both local populations and governments.

In 2016, ELC developed a new set of resources to support legal practitioners and the international community in addressing poaching and illegal wildlife trade. WILDLEX (www.wildlex.org) is a free database gathering court decisions, relevant legislation, literature and training materials related to wildlife law. It aims at providing researchers, lawyers and all interested individuals greater access to legal resources to assist them in their work. The court decision database currently contains cases from Tanzania, and IUCN is working with partners to expand it to other countries in East Africa and around the world.

Over the past year, the ELC has been working with judges, magistrates, prosecutors and professors in Tanzania to support strengthening of judicial responses to wildlife crime in that country. With researchers from the University of Dar es Salaam, the ELC conducted a study of over 250 court decisions collected over six months from around Tanzania. The study highlights that although Tanzania adopted strong legislation with stiff penalties for wildlife offenders, prosecutors, magistrates and judges face many challenges in handling wildlife cases, resulting in case dismissal, application of inappropriate penalties, and 77% of appealed convictions being overturned by the appellate court. This adds to the heavy burden on the courts, and undermines the deterrent effect of the law.

To help address these challenges, the ELC partnered with the German Corporation for International Cooperation (GIZ), the wildlife trade monitoring network (TRAFFIC), the African Wildlife Foundation (AWF), and the Tanzanian Judiciary to deliver trainings to Tanzanian investigators, prosecutors, magistrates and judges on wildlife law, and how to improve prosecution and adjudication of wildlife crime. These workshops engaged over 100 participants, and addressed issues ranging from incorporation of economic and financial offences in cases of wildlife crime to use of sniffer dogs in
Training materials on wildlife law used during these workshops are freely available on WILDLEX, for use by university professors and other trainers engaged in capacity building related to wildlife. The IUCN Environmental Law Centre envisions replication of this project in other East African Community countries and at a largest scale, with the view to promote a harmonized and integrated approach of wildlife crime at the regional and global levels.

ELC also engaged with World Wildlife Fund (WWF), Wildlife trade monitoring program of the WWF (TRAFFIC), United Nations Office on Drugs and Crime (UNODC) and other partners to scope possible new legal and policy solutions to the global problem of wildlife crime. This cooperation included a scoping study on the feasibility of promoting extra-territorial legal mechanisms modelled on the US Lacey Act, as well as a number of side events at the IUCN World Conservation Congress constituting a four day thematic journey on Combating Wildlife Trafficking. These events provided opportunities for the attendees to discuss economic, social and environmental implications of wildlife crime, challenges to curbing related illegal activities as well as initiatives and interventions which will be necessary to weaken criminal networks.

(ii) Water

BRIDGE (Building River Dialogue and Governance) as a flagship programme co-led by the ELC and the Global Water Programme started its third phase of implementation. The initiative is currently being carried out in 14 transboundary basins around the world, in six different regions extending from South America, Mesoamerica and Asia to the African continent, where BRIDGE covers five basins in the Horn of Africa, Eastern and Southern Africa, and West and Central Africa.

In 2016, transboundary water governance and hydro-diplomacy remained a major focus of the ELC’s work. The ELC organized capacity building efforts through a concerted strategy with a view to strengthen knowledge of stakeholders in the different countries regarding International Water Law, focusing on the benefits of transboundary water cooperation. Dialogues and courses on capacity enhancement for high-level authorities and diplomats as well as for local-level representatives were organized, showcasing different aspects of water governance (legal, policy, institutional, and economic). Furthermore, courses built upon a participatory methodology, where theory is put into practice through a series of practical exercises, were developed for training purposes. The ELC conducted high-level training sessions on hydrodiplomacy and international water law for officials from many government ministries in Honduras, Lao PDR, Thailand, Ecuador, El Salvador, Peru, Tanzania, Cameroon and Ethiopia.

The ELC was also actively engaged in international fora and conferences related to water governance, including the Global Environmental Facility (GEF) International Waters Conference, Colombo in Sri Lanka and the 6th Africa Water Week (AWW-6), Dar es Salaam in Tanzania.

(iii) Protected Areas

Protected Areas (PAs) are one of the oldest techniques used to safeguard places and resources for achieving conservation-related goals, and are widely recognized as a cornerstone of conservation policy and action. In order to be effective, PA systems, as well as individual PAs, must be supported by a firm legal infrastructure.

In 2016, ELC continued to develop resources for improving protected areas law. Its modular curriculum on protected areas law and governance was translated into Spanish (www.protectedareaslaw.org/espanol) and French (www.protectedareaslaw.org/francais). The
Spanish modules were piloted in a workshop in Costa Rica, and will be used by the Regional Office for Mexico, Central America and the Caribbean (ORMACC) in upcoming capacity building work in the Gulf of Fonseca and throughout the region. The French versions have been used in training workshops in West Africa run by the BIOPAMA initiative.

The ELC also worked with the United Nations Development Programme (UNDP) to develop an e-learning module on protected areas law, available at: https://www.conservationtraining.org/course/view.php?id=267. The ELC started working with UNDP to develop a webinar series based on the materials prepared under this project. The series will include four parts, covering legal tools for marine conservation, key elements of protected areas legislation including international treaties and programs, and legal tools to support connectivity conservation and strategies for transboundary conservation. It will feature as speakers the lead authors involved in the development of the modules.

The ELC also began the implementation of a project on protected areas financing, in collaboration with the IUCN Global Protected Areas Programme (GPAP) and the Business and Biodiversity Programme (BBP). The goal of this project is to incubate innovative financing solutions in 10 sites from at least 3 regions of the world, and to share lessons learned from these sites globally. A work plan and a working group of experts have started to be discussed in 2016.

(iv) Marine

At the 2012 United Nations Conference on Sustainable Development (Rio +20), States committed themselves "to address, on an urgent basis ... the issue of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including by taking a decision on the development of an international instrument under the United Nations Convention on the Law of the Sea (UNCLOS).". In June 2015, the UN General Assembly decided to create a Preparatory Committee to develop substantive recommendations on the elements of a draft text of an international legally binding instrument.

With a view of supporting the UN decision-making process, the ELC, together with the IUCN Global Marine and Polar Programme and a group of international experts on the law of the sea, developed a series of resources including a matrix of options for a new agreement on biodiversity in Areas Beyond National Jurisdiction, available at www.marinebiodiversitymatrix.org.

The matrix of options provides comprehensive information on potential elements of a new instrument relating to marine genetic resources, marine protected areas, environmental impact assessments, and capacity building and technology transfer. Where possible, these are based on legal precedents and best practices used in other agreements and institutions. The matrix is intended as a tool to help negotiators and others involved in the UN PrepCom process.

The ELC co-led the IUCN delegation to the Preparatory Committee on the elements of a draft text of an international legally binding instrument under the UN Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction (BBNJ). At both PrepComs, IUCN provided recommendations in plenary sessions and working groups, gave technical information and resources, built relationships with participants and partner organizations through formal and informal bilateral and multilateral meetings, and informed policymakers through a series of side events related to marine protected areas, environmental impact assessments, and marine genetic resources. IUCN’s recommendations and resources (such as the matrix) were repeatedly referenced during the plenary discussions.
Programme Area 2: Effective and Equitable Governance of Nature’s Use

IUCN recognised that good governance of natural resources is not only a means to an end but it is a goal in its own right. Without good governance systems in place, effective environmental policies and laws cannot be realised. In this Programme Area IUCN continues to reinforce, expand and consolidate the work started during the 2013–2016 Programme cycle, taking advantage of the impetus and momentum given to the issue through global policy frameworks, in particular the 2030 Agenda for Sustainable Development, within which SDG 16 is dedicated to governance aspects.

(i) Natural Resources Governance Framework

The last five decades have seen a proliferation of legal instruments related to the environment, ranging from treaties to national legislation to constitutional provisions to municipal regulations. Yet ecosystems and natural resources continue to decline at an alarming rate, while environmental challenges such as climate change and species loss accelerate. The expansive legal framework we have developed to ensure environmental sustainability is not meeting the ever-growing challenge. This raises questions of implementation and effectiveness of law and governance structures in the environmental context.

As part of its initiative called Natural Resources Governance Framework, IUCN has developed a set of tools and resources for assessing and improving legal aspects of natural resources governance.

In 2016, the latest of these resources was published in the form of the Environmental Policy and Law Paper (EPLP) “Framework for Assessing and Improving Law for Sustainability”. This publication lays out a framework for evaluating the implementation of legal principles across four levels: instrumental, institutional, behavioral and outcome, and six case studies from Brazil, New Zealand, China, Australia, and South Africa, which use the framework to assess legal effectiveness in different countries and contexts. The book is intended to serve as a tool for an emerging community of practice in studying and improving the effectiveness of the legal aspects of natural resource governance. Additional case studies and other resources are available on www.lawforsustainability.org.

(ii) Access and Benefit Sharing

The Caribbean islands are of critical importance for global biodiversity conservation as large percentages of each species group are endemic to the region and often to particular islands and levels of endemism are very high in the region: thus, 50 per cent of the plant life of the Caribbean is unique (UNEP, 2010). These high valued genetic resources in the Caribbean are under threat due to land degradation, climate change, and pollution from nutrients, unsustainable use and invasive alien species. The Nagoya Protocol offers the opportunity to make the best possible use of these genetic resources, generate and share benefits derived from their utilization, and return some of the revenue generated from these activities to the protection of the resources and the development of the countries where they were sourced.

As part of an initiative led by the IUCN Regional Office of Mexico, Central America and the Caribbean (ORMACC), the ELC provided technical support to eight Caribbean countries to facilitate access to their genetic resources and benefit sharing in a fair and equitable way, in line with the Convention on Biological Diversity and the Nagoya Protocol. In 2016, the ELC met with representatives of national governments and regional organizations (CARICOM and OECS) as well as stakeholders throughout the region. The ELC began to analyze the existing legal frameworks for ABS, potential gaps that need to be filled and how new laws, regulations, or policy documents could fit into the framework. Over the coming years, ELC will help these countries develop and implement new legal and policy frameworks for access and benefit-sharing, based on local knowledge, best available science, and
regional and global legal expertise.
Programme Area 3: Deploying nature-based solutions to the global challenges of climate change, food security and sustainable development

This Programme Area focuses on mainstreaming nature-based solutions (NBS) to meet societal challenges. This Programme Area also reflects a clear interface with the implementation of a number of SDGs beyond Goals 14 (life below water) and 15 (life on land) and it contributes to several specific goals, targets and commitments embodied within the three Rio Conventions.

(i) Integrated Planning

Land-use planning frameworks have traditionally focused on developing urban and semi-rural settlements and related infrastructure. Biodiversity conservation and climate change considerations are generally not reflected as an integral component in the design and use of land-use plans. In some countries, planning frameworks are either weak or poorly implemented and national agencies face gaps in experience, knowledge and tools to make decisions ensuring win-win situations for society and the environment. As a result, the potential of planning in these countries to address biodiversity conservation and help prepare for the impacts of climate change has not been realized, and the quality of governance remains unfulfilled.

Since 2014, the ELC has been working together with selected regional offices and local partners to integrate climate change and biodiversity issues into land-use planning frameworks, designing a global strategy including best practices on integrated land-use planning across 16 jurisdictions. These best practices are used to develop capacity building modules and in-country workshops to increase the understanding of the relationship between climate change, biodiversity and land-use and feedback lessons learned to the international policy level, including intervening within CBD and UNFCCC frameworks.

2016 marked the completion of a global review on legal frameworks concerning integrated land-use planning in 16 countries; moreover the ELC coordinated an annual project meeting in Vietnam and conducted workshops on integrated planning with the help of the IUCN Vietnam office. The ELC worked on a communication strategy about how the project has an impact on stakeholders in Vietnam, Colombia and Tanzania and has started to plan relevant capacity building activities.

At the IUCN World Conservation Congress in Hawaii in September, the ELC conducted an event on how Colombia, Tanzania and Vietnam are working to integrate climate change and biodiversity concerns into spatial planning laws and its importance for protected areas management.

At the Second International Colloquium on Environmental Law in Africa in Rabat in July, a pre-event for the United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties (COP 22), the ELC conducted a side event entitled: “New challenges for environmental law - Planning for a better use of our land with climate change and biodiversity in mind” with a focus on the importance of land-use, climate change and biodiversity, drawing on global examples of case studies conducted in Vietnam, Colombia, Tanzania and Zambia to provide lessons for the interaction between land-use and climate change.

At the Thirteenth meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD - COP 13), held in Cancun, Mexico in December, the ELC led a workshop showing how Colombia, Tanzania and Vietnam have contributed to achieving the Aichi targets, in particular target 7 and 11 and how planning helps to evaluate and promote success in protected and conserved areas and maximize the role of Aichi targets in sustainable landscapes, including their success in integrating climate change and biodiversity into land-use planning.

(ii) Climate Change Adaptation
With the adoption of the Paris Agreement in 2015, climate change adaptation law and governance was acknowledged formally by the international community as a key area of work for the future within the context of an International (legally binding) agreement. The instrument entered into force on November 4th, 2016, thirty days after the date on which at least 55 Parties to the Convention accounting in total for at least an estimated 55% of the total global greenhouse gas emissions deposited their instruments of ratification, acceptance, approval or accession.

Within this context, the ELC has been working on law and governance of climate change on a spectrum of activities which range from local to national and to international level.

In 2016, the ELC continued to strengthen local capacities for climate action at the local level. Joint efforts with the IUCN Regional Office for Mexico, Central America and the Caribbean were made to showcase awareness-raising of the impact of climate change, particularly in rural and the most vulnerable communities, as well as the multiple benefits of ecosystem-based adaptation. These efforts are supported from a governance perspective by ELC-led activities geared towards strengthening social cohesion and opportunities for exercising procedural and substantive rights in planning and implementing adaptation strategies which have impacts on the ground.

At the national level, the ELC supported several Central American countries with the development of their legal frameworks on climate change law and policy, by providing technical input and advice to various instruments that are currently being drafted and negotiated to ensure that ecosystem-based adaptation is taken into account. The ELC by means of AVE (Adaptation – Vulnerability and Ecosystems) is also instrumental in supporting countries to help them understand and implement their Intended Nationally Determined Contributions (INDCs) on water and biodiversity under the Paris Agreement. At the International level, outcomes and lessons learned from this project are being promoted and disseminated directly into the UNFCCC processes. The ELC took part in the meetings held in Marrakech, Morocco from 7–18 November 2016, which served as the twenty-second session of the Conference of the Parties (COP 22), the twelfth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP 12), and the first session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA 1). Specifically, the ELC supported directly the Honduras delegation as a Party Overflow, with a view to strengthen the delegation’s capacity to position topics on the global agenda which are of interest not only for Honduras but also for the whole Central American region.

Knowledge Management

ECOLEX, the Gateway to Environmental Law

ECOLEX, a global hub of information in the field of environmental law jointly operated by IUCN, FAO and UNEP went through a major technical update in 2016. In addition to the datasets on treaties, national legislation, judicial decisions, and law and policy literature, a new dataset of Conference of the Parties to Multilateral Environmental Agreements was made available by UNEP, through InforMEA – the UN information portal on Multilateral Environment Agreements. By the end of 2016, ECOLEX included extensive information on 2169 multilateral and bilateral environmental treaties, 10928 decisions from Conference of the Parties, 140686 national legal instruments, 2031 court decisions and 38851 bibliographic references to law and policy literature. ECOLEX received 130,000 visits per year from users worldwide.

Thesaurus on Environmental Law and Conventions

The UNEP-supported Multilateral Environment Agreement Information and Knowledge Management
Initiative seeks to develop harmonized interoperable information systems for the benefit of Parties and the environment community at large. One of the projects MEA IKM pursues is the development of a Thesaurus on Environmental Law and Conventions, an initiative funded by the European Union.

The thesaurus was developed containing approx. 500 concepts based on existing terminologies provided by selected Multilateral Environmental Agreements, including UNFCCC, UNCCD, BRS cluster, CBD, CMS, Ramsar, CITES and ITPGRFA as well as ECOLEX/FAOLEX controlled vocabulary. The collection was harmonized on a basis of commonly agreed recommendations and completed with additional synonyms, definitions, translations and potential alignments to other interoperable information tools. In June, the ELC participated as observer to the 7th MEA IKM Initiative Steering Committee Meeting held in Montreux, Switzerland, and further promoted the linkages between InforMEA and ECOLEX through the Thesaurus on Environmental Law and Conventions, also known as Law and Environment Ontology. The ELC supported affiliated developments such as mapping of controlled keywords and auto-tagging efforts. The draft thesaurus is constantly validated and updated at the ELC based on comments and exercises in a multi-stakeholder approach by MEA focal points.

Other information tools

Wildlex (www.wildlex.org) is a free database gathering court decisions, relevant legislation, literature and training materials related to wildlife law. The court decision database currently contains cases from Tanzania, and IUCN is working with partners to expand it to other countries in the region and around the globe.

Law for Sustainability (http://www.lawforsustainability.org) is a database with tools and resources for assessing and improving legal aspects of natural resources governance.

Protected Areas Law (http://www.protectedareaslaw.org) provides capacity building materials and resources on legal aspects of area-based conservation, including protected areas and connectivity.

Water Law and Governance (http://www.waterlawandgovernance.org/) is a database to provide legal expertise and support on water law and governance issues in national and transboundary contexts.

Selected Publications in 2016


ELC Interns

Nine interns from China, Ecuador, France, Greece and Italy worked at the ELC in 2016 for periods of three to six months. They contributed to activities and projects on diverse topics including: access and benefit sharing, water governance, rights-based approaches to conservation, protected areas, and climate change adaptation.
2016 was a landmark year for the IUCN World Commission on Environmental Law (WCEL). A number of major initiatives reached fruition, membership increased over the previous year, and communication improved to share information and connect with both members and non-members to promote and strengthen work for the environmental rule of law.

The 1st IUCN World Environmental Law Congress: Environmental Rule of Law, Justice and Planetary Sustainability1 convened from April 27-29 in Rio de Janeiro, Brazil under the auspices of IUCN and UN Environment. 2Spearheading the event, WCEL brought over 400 participants together to engage in pre- and post-Congress events, plenary sessions, and three series of workshops aligning with the sub-themes: 1) Planetary challenges; 2) Legal opportunities and priorities; and 3) Legal institutions and environmental law. Over three days, institutions and actors, including judges, legislators, prosecutors, government agencies, intergovernmental organizations, multilateral financial institutions, public interest organizations, and the private sector, as well as scientific and policy experts from related disciplines, joined to address environmental challenges through the lenses of law, science, and policy. In doing so, they assessed the current state of environmental law, identified current and continuing deficiencies, and more clearly defined its role in line with IUCN’s Vision of ‘a just world that values and conserves nature’. Thus, the Congress built upon the momentum of major international achievements that marked 2015, including the adoption of the UN Sustainable Development Goals (SDGs), the Paris Agreement on Climate Change, the Addis Ababa Action Agenda on Financing for Development, the Sendai Framework for Disaster Risk Reduction 2015-2030, and the Kigali Amendment to the Montreal Protocol.

Acknowledging the importance of conservation and environmental governance, the Congress exhibited the role of law in developing and implementing solutions to ensure ecological, social, and economic sustainability. Major outcomes of the Congress included the launch and first meeting of the Global Judicial Institute for the Environment (GJIE) as the platform for international convergence of judges and environmental law, as well as adoption of the “IUCN World Declaration on the Environmental Rule of Law” outlining 13 principles to serve as the foundation for developing and implementing solutions for ecologically sustainable development.

Highlights included:

- Adoption of the “IUCN World Declaration on the Environmental Rule of Law” by the World Environmental Law Congress on 29 April 2016. The Declaration emphasizes the fundamental role of the environmental rule of law as the legal foundation for promoting environmental ethics and achieving environmental justice, global ecological integrity, and a sustainable future for all at local, national, sub-national, regional, and international levels. It elaborates the foundations of the Environmental Rule of Law, 13 general and emerging substantive

2 High appreciation is to be expressed to all partners: Co-organized under the auspices of IUCN and in collaboration with UNEP; Organized by the Brazilian Association of Judges (AMB), the Supreme Court of the State of Rio de Janeiro, the Brazilian National Judicial School (ENM), and the Association of Judges of the State of Rio de Janeiro (AMAEJR); in cooperation with the Organization of American States (OAS), the International Association of Judges (IAI), the Asian Development Bank (ADB), the Global Legislators Organisation for a Balanced Environment (GLOBE), the International Network for Environmental Compliance and Enforcement (INECE), the Environment Committee of the Iberian-Latin American Summit of Chief Justices, the European Union Forum of Judges for the Environment and the Office of the Attorney General of the State of Rio de Janeiro; and with Knowledge Partner: FGV Projetos – Getúlio Vargas Foundation, Brazil.
principles for promoting and achieving environmental justice, and means for implementation. An appeal is made to states, sub-national governments, regional integration organisations and other relevant international organizations, legislators, civil society, and the private sector to contribute to the building, maintenance, and promotion of the environmental rule of law based on the aforementioned principles, as part of their shared responsibility to present as well as future generations.

- **Establishment of the Global Judicial Institute for the Environment (GJIE)** on 29 April 2016. With adoption of its Charter, GJIE has begun its mission to “… support the role of courts and tribunals in applying and enforcing environmental laws and in promoting the environmental rule of law and the fair distribution of environmental benefits and burdens”. The institute is composed of sitting judges from around the world, and led by an elected council directing and overseeing activities. As an initiative directed by judges, GJIE is a forum for convening judges on environmental issues and will provide opportunities for information exchange, collaboration, strengthening capacity, and providing research and analysis for environmental adjudication, court practices, and the environmental rule of law.

Some of the key activities envisioned by the GJIE include developing and carrying out judicial capacity building, technical assistance, and education programs and projects; providing platforms and online resources for exchange and knowledge-sharing among judges; and facilitating cooperation and linkages among judges and with the community of stakeholders involved in environmental compliance and enforcement. Over the next year, with the adoption of the GJIE Charter, a committee of judges will continue to work on structuring the Institute to fulfill its mission of supporting courts and tribunals in their important work. Above all, the formation of the GJIE represents an important step forward for ensuring environmental justice and the effective implementation of laws, policies, and constitutional provisions on environmental protection.

- **Global Colloquium of WCEL Early Career Environmental Law Experts**: Legal Tools for a Sustainable Anthropocene. This pre-congress event showcased presentations by young professionals that outlined essential legal principles for shaping sustainable futures.

- **Capacity Building Program on the Environmental Rule of Law: Addressing the Challenges of the Judiciary in Protecting our Common Home**. This event convened at the Supreme Court of the State of Rio de Janeiro to shed light on the challenges to the Inter-American Judicial Capacity Building Program on the Environmental Rule of Law from the national to the global level. The session brought together judges and experts from the Americas and beyond to share their progress in advancing through their decisions the concept of environmental rule of law and an ethic of the vulnerable, including the planet.

- The Congress **featured keynote addresses** by Chief Justice Francisco Falcão (President of the National High Court of Brazil), Luiz Fernando Ribeiro de Carvalho (President of the Tribunal of Justice of Rio de Janeiro), Liliana Ayalde (Ambassador of the United States to Brazil), Inger Andersen (IUCN Director General), Justice Antonio Herman Benjamin (Chair of WCEL), Professor Thomas Lovejoy (George Mason University, and Senior Fellow at the United Nations Foundation), Bradnee Chambers (Executive Secretary, Convention on Migratory Species), Parvez Hassan (Chair Emeritus, WCEL), Ricardo Lorenzetti (Chief Justice of the Supreme Court of Argentina), Nestor Mendez (Assistant Secretary-General, Organization of American States), Justice Shen Deyong (Deputy-Chief Justice, People’s Supreme Court of the

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3 https://www.iucn.org/sites/dev/files/content/documents/charter-of-the-global-judicial-institute-rio-de-janeiro-29-april-2016-.pdf
People’s Republic of China), Izabella Teixeira (Minister of the Environment of Brazil), Marina Silva (former Senator and Minister of Environment, Brazil), and Jorge E. Vinuales (Harold Samuel Professor of Law and Environmental Policy, University of Cambridge, United Kingdom).

The Global Meeting of Environmental Law Centres and Journals discussed four main themes: (1) Environmental law reviews and journals; (2) Conceptual development of environmental law; (3) Electronic tools for environmental law research and knowledge sharing; and (4) the Sustainable Development Goals (SDGs).

WCEL “Environmental Legal Journey” at IUCN’s 6th World Conservation Congress hosted by the government of Hawai’i with the support of the United States government in Honolulu from 1-10 September 2016. Gathering more than 10,000 participants from across the globe under the theme “Planet at the Crossroads”, IUCN focused on matching its strengths to real conservation needs and contributing toward achievement of the Sustainable Development Goals (SDGs). Emphasizing the environmental rule of law as the legal foundation for environmental justice, WCEL, the ELC and the IUCN Academy of Environmental Law organized an “Environmental Law Journey” spanning all Specialist Groups, the Union’s six commissions and its Secretariat. With more than 30 events over the course of four days, legal practitioners, academics, policy makers, judges, civil society organizations, and individuals joined to discuss and discover topics as diverse as environment and security, property law and protected areas, developing a global soil regime, and the growing role of judges in environmental protection. As a highlight, the “Inter-Generational Climate Justice Moot Court” brought together eminent environmental law jurists to preside over a mock hearing before the International Court of Justice as law students addressed the issue of the responsibility of nation-states, under international law, to address the global climate crisis. Special events over the course of the journey also included the session “Emerging Leaders and the Future of Environmental Law”, a meeting of WCEL members present in Honolulu, and the “Colloquium on Judges and Nature”.

Specialist Groups

WCEL’s Specialist Groups (SGs) are essential to the work of the Commission at large. Many WCEL members participate in one or more SGs that work to promote, develop and implement their areas of environmental law for conservation and sustainable development at national, regional, and international levels. Here follow the reports submitted for the year 2016:

(i) Access and Benefit Sharing and Related Issues Joint Specialist Group (WCEL-SSC)

Access and Benefit Sharing (ABS) Joint Specialist Group (JSG) continues to operate under the following mandate:

- To bring the range of perspectives on ABS to a “neutral playing field”, increasing understanding of the needs and concerns on all sides.
- To provide expert information and input, enabling all perspectives including conservation, research, sustainable use and social welfare, to be addressed in international efforts to resolve the global debate relating to ABS.
- To improve the global community’s ability to implement ABS based on an understanding of those perspectives.
- To respond to questions and needs relating to guiding ABS implementation, with particular attention to the impact of ABS on biodiversity-related issues of conservation, research, sustainable use and social welfare.

In addition, as one of the Specialist Groups that is dedicated to cutting across the divisions between
IUCN commissions, it has also focused on maximizing interactions with IUCN commission members that have an interest in genetic resources, across the full range of IUCN. Thus, although the lack of financial resources has limited the JSG’s ability to engage in substantive legal/policy development within the ABS “community,” members of the JSG have:

- participated in five international diplomatic processes on ABS and genetic resources, including providing substantive advice to two of them;
- coordinated with IUCN inter-commission work on improving the operation of the commissions;
- provided substantive input into five ABS development projects (one being implemented by the IUCN ELC, and four others having contacted the JSG for expert input on current legal and practical challenges they are addressing).

At a time when requests for assistance are frequent but funding is scant, the JSG continues to function as a vehicle for the sharing of work, ideas, best practices, concerns and challenges across the entire range of genetic-resource related topics.

(ii) Armed Conflict and the Environment Specialist Group

The work of the Armed Conflict and the Environment Specialist Group in 2016 focused on two general themes:
(1) The legal protection of the environment in times of armed conflict (led by Co-Chair Michael Bothe), and
(2) The role of natural resources in post-conflict peacebuilding (led by Co-Chair Carl Bruch).

As to the first part of the work, the essential activity was, as in previous years, contact and cooperation with the UN International Law Commission (ILC) which is dealing with the topic “Protection of the Environment in Relation to Armed Conflict.” The very formulation of the subject chosen by the ILC indicates a broad approach to the subject, which does not only cover rules of behavior applicable during armed conflict, but also rules applicable before and after the armed conflict. While the SG had before rather concentrated its attention on rules applicable during armed conflict, it has now broadened its approach accordingly. This leads to a certain overlap with the work of the second sub-group, which led to fruitful cross-fertilization. The SG considers itself as a friendly but also critical companion of the work of the ILC. During the years 2014 to 2016, the Special Rapporteur of the topic submitted three reports which led, in 2016, to the provisional adoption of a set of “Draft Principles” by the Commission. This work has required, and continues to require, a thorough analysis in which the SG has been engaged and will continue to work.

At the World Environmental Law Congress, held in Rio de Janeiro in April 2016, both Michael Bothe and Carl Bruch addressed specific issues related to the subject, such as its relationship to the Sustainable Development Goals (Michael Bothe) and Water Security (Carl Bruch). This was, inter alia, the purpose of a side-event the SG organized at the IUCN World Conservation Congress in Honolulu, Hawai’i, held in September 2016. In addition, Michael Bothe and Karen Hulme published, or are about to publish, articles analyzing the ILC work.

With respect to the second part of the work, post-conflict natural resource management, the primary accomplishment was the publication of Governance, Natural Resources, and Post-Conflict Peacebuilding (Routledge 2016), edited by Carl Bruch, Carroll Muffett, and Sandra S. Nichols. This book was the final in a series of edited volumes that the SG helped launch and to which many members contributed.

Another aspect of the environmental protection necessitated by man-made or natural disasters is the ensuing problem of refugees and internally displaced persons. Environmental destruction is often
the consequence of armed conflict and the trigger of refugee movements. Therefore, members of the group have started to participate in the international legal discourse related to environmental displacement and migration. This includes participation in events in Liege, Belgium (November 2016) and Tokyo, Japan (December 2016). This is a new area of work, and participation in these events assists consideration how the SG might engage on the topic in the future.

(iii) Ethics Specialist Group

During the reporting period, two ongoing SG projects - Climate Ethics (coordinated by Prue Taylor and Don Brown) and Earth Democracy (coordinated by Klaus Bosselmann, Peter Burdon and Ron Engel) – were further advanced. Conferences where collaborators of these projects presented included, *inter alia*, the IUCN Academy of Environmental Law Colloquium in Oslo, June 2016, and the IUCN World Conservation Congress in Honolulu, Hawai‘i in September 2016. ESG members also played a significant role in helping to draft the “IUCN World Declaration on the Environmental Rule of Law” during the 1st World Environmental Law Congress in Rio de Janeiro, April 2016. ESG members were also instrumental for organizing several events during both the Oslo Colloquium and the World Conservation Congress.

Highlights for the year included organizing a very successful Workshop “From Environmental Law to Ecological Law” on 21 June (during the IUCN Academy Colloquium) with nearly 100 participants who unanimously adopted the “Oslo Manifesto” calling on environmental law scholars and practitioners to focus on an ecological (eco-centric) approach to law-making at international and national levels. The Manifesto, in particular, commissions a working group to develop a roadmap (inclusive website and founding conference) for the establishment of an Ecological Law and Governance Association (ELGA) as a global platform for organizations and individuals promoting ecological law. ELGA will be officially launched mid-October 2017 in Siena, Italy and is provisionally chaired by the SG Chair (with other SG members being on the Steering Committee).

The Ethics SG organized a successful Workshop “How Can Ecologically Informed Global Ethics and Environmental Law Respond Effectively to the Great Moral Issues of Our Time?” on 2 September during the IUCN World Conservation Congress. Among other things, participants discussed ways to help IUCN take leadership on global ethics (e.g. with respect to climate change, biodiversity and Earth’s ecological integrity). It was noted that WCEL can do more to urge implementation of ethics resolutions initiated previously by SG in 2012, in particular, Resolution 004 “Ethics Mechanism”.

The SG is also instrumental in establishing the research collaboration “Planetary Integrity Project” (PIP) between a number of universities, NGOs (e.g. World Future Council, Oxfam, WWF) and professional organizations (including Stockholm Resilience Center, Global Ecological Integrity Group, and WCEL). Among its aims is a proposal to the UN Secretary-General to initiate a UN-based Global Stewardship Council. Other activities of members during the reporting period included conference presentations and multiple publications in the areas of global ethics, Earth jurisprudence, global environmental law, climate change, and ecological integrity, among others.

(iv) Oceans, Coasts and Coral Reefs Specialist Group

The Oceans, Coasts and Coral Reefs Specialist Group, led by Co-Chairs Nilufer Oral and David VanderZwaag, had a productive year in 2016. The SG was involved in a range of work and highlights include:

- The Co-Chairs, along with Specialist Group members Robin Warner and Kristina Gjerde, contributed papers relating to law of the sea and governance of areas beyond national jurisdiction which will be published in an upcoming book co-edited by Nilufer Oral, Harry Scheiber and M. Kwon,
Ocean Law Debates: The 50 Year Legacy and Emerging Issues for the Years Ahead (Brill/Martinus Nijhoff, 2017). The papers were first presented at the Law of the Sea Institute’s 50th Anniversary Conference convened by the University of California Berkeley Law School in October 2015 where the Oceans SG organized a panel of experts exploring global and regional challenges in addressing governance of marine biodiversity on the high seas.

- The Co-Chairs collaborated with the WCEL Chair in developing a panel program on “Biodiversity and Marine Ecosystems” for the World Environmental Law Congress in April 2016.

- The Group convened a successful workshop in collaboration with various IUCN units, “Governance of Marine Biodiversity in Areas beyond National Jurisdiction: Progressions and Challenges” at the IUCN World Conservation Congress in Hawai’i, September 2016. The Co-Chairs also served as panelists at the special Congress session, “The High Seas: Conserving the Earth’s Final Frontier” organized by IUCN’s Global Marine Programme.

- The Specialist Group was actively engaged in the United Nations Preparatory Committee process to develop an international legally binding instrument under the UN Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction. The Co-chairs and Members contributed to an IUCN briefing paper on key options for a new agreement in preparation for the third session of the Prep Comm to be held 27 March-7 April 2017. Members of the SG also participated in the IUCN delegations to the first and second sessions of the Prep Comm in New York (28 March-8 April 2016 and 26 August-9 September 2016).

Aside from events and projects in which the Oceans, Coasts, and Coral Reefs SG was involved, Co-Chairs and Members also authored numerous publications.

(v) Sustainable Use of Soil and Desertification Specialist Group

The Sustainable Use of Soil and Desertification Specialist Group focused on the parameters set out in an IUCN World Conservation Congress resolution adopted in 2000 requesting the IUCN Environmental Law Programme, “in its development of legal guidelines and explanatory material, and investigation into a global legal instrument for the sustainable use of soils, to pay particular attention to the ecological needs of soil and their ecological functions for the conservation of biodiversity and the maintenance of human life”. This mandate continues to provide a consistent programme that increasingly contributes in new ways across national, regional and international levels. Deeper engagement within IUCN included serving as member of the core group collaborating with the Global Drylands Initiative (GDI), convening a session on “Soils, Biodiversity and Forest Ecosystems during the World Environmental Law Congress in April 2016 in Rio de Janeiro, and holding a Knowledge Cafe titled “Developing a Global Soil Regime” at the 2016 IUCN World Conservation Congress.

Continuing investigation and discussion of various options for an international instrument for soil is strongly linked to the concept of land degradation neutrality (LDN) and its implementation under SDG 15. As global interest continues to grow in the legal aspects of LDN, it is a subject of ongoing discussions with the UN Convention on Desertification (UNCCD), international environmental law groups, and soil science groups. In this regard, SG members have been active at the global level (e.g., Global Soil Week) and the regional level (e.g., European area), and there has been interaction with a number of organizations including the European Commission (DG Environment), the Federal German Environment Agency, the Institute of Advanced Sustainability Studies Potsdam, World Association of Soil and Water Conservation, and the European Soil Conservation Society.
Members represented at a number of global events during 2016 including contributions to the IUCN Technical Brief on Land Degradation Neutrality (with the IUCN Dryland Initiative) and a chapter on “Pastoral Land Law for the Food and Agriculture of the United Nations (FAO) Technical Guide to Governance of Pastoral Land” (compiled by the IUCN Dryland Initiative, Nairobi). Additional participation included contributions to the French part of the legislative inventory on soil launched by the European Commission with the Ecologic institute, co-organizing the French World Soil Day at the French Parliament; and reviewing the strategic plan of the World Association of Soil and Water Conservation.

At the national level, the principal areas of interest include Northeast and Central Asia, with special interest in China and Mongolia. For example, the SG contributed to the workshop on China’s Soil Contamination Law held in July 2016 and was part of the working group on soil for the Environmental Code project of Cambodia. In September, SG members assisted the Icelandic government with drafting its revised Soil Conservation Law. Expertise in reviewing and assisting with drafting of national soil law was applied further in the preparation of reports on spatial planning completed for various countries for an IUCN ELC project on integrated spatial planning.

(vi) Energy Law and Climate Change Specialist Group

The Energy and Climate Change Specialist Group continues its focus on the mitigation of climate change as essential to IUCN’s mission. Reducing air pollution coupled with promoting renewable energy and energy efficiency are the main components of the work of the SG. The Co-Chairs are nearing completion of the Beijing-Los Angeles Air Pollution Study. This is a major study on combating air pollution, comparing the efforts made in Los Angeles, California and those being undertaken in Beijing, China. It is hoped that the lessons learned from these two studies will serve as a guide to assist all communities everywhere suffering from hazardous air pollution to understand measures that work best in their clean-up endeavors. A number of members recently contributed WCEL expertise to authoring and editing the UN Environment Guide to Energy Efficiency and Renewable Energy Laws.

With a high presence at the IUCN World Conservation Congress in Hawai’i, the SG hosted a Knowledge Café involving WCEL, ELC, Brendan Mackey (Chair of the IUCN Climate Change Task Force), Professor David R. Hodas (Widener Law School, USA); and the International Renewable Energy Agency (IRENA). The Café focused on energy efficiency and renewable energy investments as vital contributors to economic development; to achievement of the UN Sustainable Energy Goals, particularly Goal 7 regarding energy for all; and for mitigating climate change so important to the conservation of nature. Emphasis was especially placed on the economic advantages of these nature-based solutions. Cafe presenters included Shakeel Hussein Kazmi (Professor of Practical Legal Studies, NYU University Abu Dhabi); Tumai Ruombo (Associate Professor, Witwatersrand University and Director of the Mandela Institute, Johannesburg, South Africa); Koh Kheng Lian (Professor, National University of Singapore and Honorary Director, Asia-Pacific Centre for Environmental Law (APCEL)); Luce Meini (Head of Environmental Policies of the Italian utility, ENEL - a leader in renewable energy -); Li Wei (Associate Professor and Director of the Institute of Energy Law at Henan, China), Robert Percival (Robert F. Stanton Professor of Law and Director, Environmental Law Program, University of Maryland Law School); and Lee Paddock (Associate Dean for Environmental Law Studies at George Washington University).

Encouraging energy-based solutions to climate change, the SG is happy to report that it successfully worked with IUCN Members to pass Resolution 089 “Energy efficiency and renewable energy to promote the conservation of nature”. Herein, Members are urged to encourage transition to renewables and to phase-out subsidies for fossil fuels, while WCEL is requested to expand its collaboration with IRENA to advance legal frameworks for energy efficiency and renewable energy
systems. Following the Congress in Hawai‘i, the Chair was appointed as the only non-Council Member to the newly created IUCN Climate Change Task Force and subsequently invited by the Government of Tonga to join the Advisory Board of the Oceania Energy & Climate Change Initiative. These combined efforts point the SG in a good direction to continue supporting the laws requisite for successful renewable and efficient energy programs. Efforts should focus toward building partnerships with IRENA by assisting project initiators and implementers to adopt legal platforms.

(vii) Early Career Group

The highlights of Early Career Group (ECG) activities for 2016 center around IUCN’s World Environmental Law Congress held in Rio de Janeiro, Brazil in April and the World Conservation Congress held in Honolulu, Hawai‘i, USA in September 2016. The ECG has also strengthened ties with the Future Earth Network of Networks, contributed to the “IUCN World Declaration on the Environmental Rule of Law”, developed (and implemented the WCEL Social Media Strategy, and continued to build on activities initiated in the previous reporting period such as the WCEL blog and the book project: Charting Environmental Law Futures in the Anthropocene.

The inaugural “IUCN WCEL Global Colloquium of Early Career Environmental Law Experts: Legal Tools for Sustainable Futures in the Anthropocene” was held on the 27 of April 2016 as a pre-Congress event of the World Environmental Law Congress. The Colloquium brought together early-career environmental lawyers from around the world to identify the legal tools and governance transformations required for shaping sustainable futures in the Anthropocene. The colloquium included presentations by 25 emerging scholars from around the world. The inclusion of pre-recorded video presentations from experts who were unable to attend in person enhanced the richness of the discussion by enabling contributions from multiple parts of the globe. Opening remarks for the Colloquium were provided by Inger Andersen (IUCN Director General) and Justice Antonio Benjamin (Supreme Court Justice – Brazil and WCEL Chair); with closing remarks from Prof. Ben Boer (WCEL Deputy Chair). A video recording of the Colloquium and individual video presentations is available online. Findings from the workshop were presented at the final plenary session of the World Environmental Law Congress and were incorporated in the “IUCN World Declaration on the Environmental Rule of Law”. The ECG played an important role in ensuring that issues of intergenerational equity and emerging ecological concepts such as resilience were included in the Declaration.

At the IUCN World Conservation Congress held in Hawai‘i in September 2016, ECG Chairs, Michelle Lim and Nick Bryner organized the ‘Emerging Leaders and the Future of Environmental Law’ side event in conjunction with Prof. Denise Antolini (University of Hawai‘i and the Supreme Court of Hawai‘i). As part of the “Environmental Law Journey” the event brought together an international group of emerging environmental law scholars and practitioners, and was well attended by local and international early career environmental lawyers. It was also supported by a large group of established environmental law experts including Supreme Court justices from Hawai‘i and Brazil and members of WCEL and the IUCN Academy of Environmental law.

The ECG also jointly organized a workshop with the IUCN Environmental Law Centre asking the question: “Is there a place for law in the future of conservation?” The workshop convened an eminent panel of speakers from a range of sectors and disciplines. Panelists comprised: Prof. Nilufer Oral (Chair, IUCN Academy of Environmental Law), Elizabeth Mrema (Director, UNEP Division of Environmental Law and Conventions (DELC)); Justice Antonio Herman Benjamin (Supreme Court Justice – Brazil and WCEL Chair); Trevor Sandwith (Director, IUCN Global Protected Areas Programme); Ida Kubiciweski (Australian National University); and Deric Quaile (Manager, Environmentally Sensitive Areas, Shell). A video was a key output of the workshop.
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