

# II Inter-American Congress on the Environmental Rule of Law



## Towards achieving peaceful, just, inclusive and pollution-free societies for sustainable development in the Americas - Key Messages



The following key messages regarding the trends and progress in advancing environmental rule of law were highlighted as a result of the deliberations of the 2nd Inter-American Congress on Environmental Rule of Law<sup>1</sup>:

- 1- The levels of pollution, including of water, air, land and other natural resources in the Americas are of deep concern. Pollution negatively affects the rights of all people, communities and sustainable development. Our collective goal must be a pollution free region. Urgent action is our responsibility.

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*Pollution, directly related to population growth, is a recurrent and increasing problem in many areas of the region. Close to 100 million of the region's inhabitants are exposed in their daily lives to concentrations of ambient air pollutants in excess of the maximum permissible levels. In the Americas, 93 000 deaths in low and middle income countries (LMIC) and 44 000 in high income (HI) countries are attributable to ambient air pollution. Enforcement and control of the existing air quality regulations is also limited, as only 19 of the 35 countries in the Region of the Americas provide information on ground level air quality measurements.*

**Sources:** 2016 UN Environment Programme GEO LAC 6; 2013. PAHO Guía de Análisis de Impacto en Salud and 2016. World Health Organization. Ambient air pollution: A global assessment of exposure and burden of disease.

- 2- Adequate and implementable laws, access to justice and information, public participation equity and inclusion, accountability, transparency, liability for environmental damage, fair and just enforcement, and human rights should be applied and interpreted jointly as the framework for the environmental rule of law and bearing in mind that addressing environmental issues like pollution requires complex, medium- and long-term remedies;
- 3- The Environmental Rule of Law is not a matter of ideology; it is grounded in collective responsibility for the common good. Employing a rights-based approach to sustainable development in the implementation of the 2030 Agenda for Sustainable Development is essential and will lead to better and more just outcomes for people and communities in the Americas;

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<sup>1</sup> This document sets out the insights and views expressed by the participants of the II Inter-American Congress on the Environmental Rule of Law, co-organized by the Organization of American States, the United Nations Environment Programme, the IUCN World Commission on Environmental Law, the Global Judicial Institute on the Environment, the Supreme Court and the Judiciary of Chile and the Environmental Law Center of the University of Chile amongst other partners. It is not a negotiated document, but rather a reflection of the broad perspectives and thinking of the participants that does not necessarily represent country or institutional positions or consensus on each and every issue. These messages complement and should be read and interpreted jointly with the key messages resulting from deliberations of the I Inter-American Congress on the Environmental Rule of Law, held in Montego Bay, Jamaica on March 30<sup>th</sup>-31<sup>st</sup>, 2015: [http://www.oas.org/en/sedi/dsd/ELPG/aboutELPG/Events/summary\\_proceedings\\_jamaica\\_2015.pdf](http://www.oas.org/en/sedi/dsd/ELPG/aboutELPG/Events/summary_proceedings_jamaica_2015.pdf).

- 4- Constitutional environmental rights, along with emerging principles in the Americas such as the minimum ecological threshold, the protection of the ecological function of property within property rights, and in *dubio pro natura* are an important contribution to sustainable development and must be realized to achieve living in a pollution free world and for the benefits of all people in the Americas;
- 5- The environmental rule of law contributes to closing the existing gaps between recognition and implementation of environmental rights, including the right to water. Processes such as the World Water Forum should continue to include stakeholders such as parliamentarians, judges, prosecutors and auditors amongst other;
- 6- Effective enforcement represents a challenge to the environmental rule of law in the Americas and requires effective laws, independent oversight, enhanced capacities and involvement of prosecutors, judges, parliamentarians and all other relevant stakeholders;
- 7- National Laws, international cooperation and capacity building should be strengthened for the prevention and prosecution of crimes that have serious impacts on the environment;
- 8- Environmental protection is not possible without judicial expertise on environmental matters and an independent judiciary. Impartial decision making and application of the principles of the rule of law to environmental issues is essential to effectively tackling corruption, to conflict resolution and prevention of environmental damages;
- 9- Specialized expertise among judges including in environmental courts and tribunals has contributed significantly to the development of effective environmental adjudication. The establishment of the Global Judicial Institute on the Environment, the efforts of the Environmental Justice Committee of the Iberoamerican Judicial Summit and the specialization of Judges, Courts and Tribunals in the Americas should continue to be supported;
- 10- The parliaments and parliamentarians of the Americas have a critical role to play to ensure the coherent national implementation of Multilateral Environmental Agreements (MEAs) and the existence of adequate, clear and implementable environmental laws;

- 11- Effective Environmental impact assessments and strategic environmental assessments are important—to make sure critical information to predict future impact on the environment is supplied and considered in the decision-making process. They also help ensure the democratic consideration and coherence amongst socio-economic and environmental objectives in the Americas;
- 12- Further investment into enhancing the environmental rule of law, the observance of rights and obligations, and into enhanced capacities of all relevant stakeholders will advance peace and security in the Americas as well as social and economic wellbeing;
- 13.-The multi-dimensional characteristics of the environmental rule of law emphasize the importance of dialogue and cooperation amongst branches of government for it to contribute to environmental protection. Constructive dialogue and exchange of information, experiences and best practices among the public state authorities of the region with respect to the environmental rule of law should be encouraged;
14. Partnerships such as between the OAS, UN Environment and the IUCN World Commission on Environmental Law, other intergovernmental organizations, civil society, other key governmental and non-traditional stakeholders, particularly financial institutions should be strengthened to support the environmental rule of law for achievement of the 2030 Agenda for Sustainable Development, increased peace and justice, inclusive societies and strong institutions;
15. The OAS, UN Environment, the IUCN World Commission on Environmental Law and their partners should continue to support the identification of trends, the advancement of goals and principles on the environmental rule of law, including in the context of initiatives and instruments such as the Global Pact on the Environment and the IUCN World Declaration on the Environmental Rule of Law, as well as capacity building and dialogue amongst the different branches of government;
16. Continued support to the governments of the Americas, judges, prosecutors, parliamentarians and auditors in the development and implementation of environmental law in the areas of pollution prevention and control, water law, trade investment and environment, conflict prevention and management, access rights and environmental enforcement is key.