

JUNE/2020

Earth Consciousness & Evolving Frameworks

Special Cover: World Environment Day &
International Day for Biological Diversity, 2020



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Scope of the Work

The document entails a summary of developments in the context of growing earth consciousness around the world. It briefly covers the *rights revolution* that has changed the framework of laws and processes in many jurisdictions, and the on-going deliberations on the Post 2020 Global Biodiversity Agenda involving all stakeholders.

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PART I

Concept, Rights & Instruments

Earth consciousness involves an understanding of our relationship with earth. It involves the study of earth forms, their life processes and inherent needs.

Earth consciousness has created a field of frameworks & knowledge systems permeating into the day to day lives of humans including their political-economic-cultural spaces.

The expression earth consciousness can be interpreted in many ways to include human awareness of nature & its processes, or the bond with mother earth & and all its forms .

Concept

Earth consciousness or the universal respect for nature and all of its forms is manifesting in different ways. It can be viewed as;

The growing body of knowledge, principles & practices called Earth Jurisprudence -

The protection of earth forms through rights and responsibilities - The management of earth systems through earth system governance [Kotze & Kim] - A call for recognizing the pluriverse, a place where the human, natural & the spiritual world co-exist.

[Querajazu]

Amongst the principles of Earth jurisprudence is the recognition that all members of the planet's community possess legal rights, including the right to exist and participate in the evolution of life's bio-diverse networks of interdependent systems .

[TJ Demos, 2015]

Of the Earth, there is a single integral community that includes all its component members whether human or other than human . In this community, every being has its own role to fulfil, its own dignity, its inner spontaneity . Every being has its own voice . Every being declares itself to the entire universe . Every being enters into communion with other beings. This capacity for relatedness, for presence to other beings, for spontaneity in action, is a capacity possessed by every mode of being throughout the universe

(Wild Law - The Rights of Nature)

Perspectives

The multidisciplinary approaches that build the idea of Earth consciousness have added much weight to building frameworks for protection & preservation. One can see an influence of cultural, ethical, legal, philosophical, religious, & spiritual perspectives in the realization of a deep & meaningful relationship between humans with nature.

Different frameworks and approaches dealing with the relationship & engagement of nature and human beings have been significant in blending philosophy, science & cultural values into the generation of knowledge about earth systems, and the enforcement of mandates.

Frameworks are reflective of a consensus reached, as well as the standards for mobilization & decision making.

In Philosophy, for instance, the Tao is sometimes called the way of nature. Taoism, a holistic philosophy requires an understanding of the ever-changing balance between human activity and the environment. Taoism includes following principles of nature and not hurting other persons.

1. Live in consonance with natural cycles.
2. Regarding people, they should behave more cooperatively and less competitively.
3. One should live in such a way as to minimize adverse impacts on both the natural environment and human societies.

- Psychotherapist Thom Hartmann on the harms caused to nature notes;

The problem is not a problem of technology. The problem is not a problem of too much carbon dioxide. The problem is not a problem of global warming. The problem is not a problem of waste. All of those things are symptoms of the problem. The problem is the way that we are thinking. The problem is fundamentally a cultural problem.

The Rights Framework

In the sphere of law and policy , normative frameworks identify and define the scope of relatability between nature & humans and the responsibilities arising therefrom. The legal landscape on the subject has grown significantly at the domestic & international level. [e.g. The Rights Frameworks recognizing rights and interests of nature and its various forms. The Multilateral Biodiversity Framework focusses on the relationship between nature and people- Convention on Biodiversity, CBD].

The Rights Framework

The rights framework has been an active field for the assertion of claims on behalf of entities in nature. It has led to the adoption of several legal instruments and guarantees in protection and preservation of earth forms/nature. The following developments define the rights framework;

1. Entities in Nature

The rights centric understanding focuses on ecosystems or natural entities that are alive and sustain life. [Chapron, Epstein & Bao]. Several entities in nature have been conferred legal personhood in various jurisdictions.

An understanding that all rights have been bestowed on human beings has been vital to the rights revolution. The other than human modes of have been with no rights and having their reality and value only through their use by the human. In this context, the other than human becomes has been viewed as totally vulnerable to exploitation by the human.

[E.g. The Uttarakhand High Court – recognized Yamuna & Ganga as a legal entity. “The decisions included a blend of Hindu cosmology & western legal concepts.” [Kinkaid]]. [e.g. New Zealand Act: In 2017, New Zealand government recognized Whanganui river as a legal person, “indivisible and living whole...This legal person has both rights and duties, including property rights in its riverbed.

The Rights Framework [Cont...]

2. Litigation

Involves a series of litigations in domestic, regional & international courts to protect and preserve nature.

[e.g. In Costa Rica v. Nicaragua-2018, the International Court of Justice determined a claim for damages for environmental harm. The judgment is notable for its guidance approaches to damages claims in cases of environmental harm, the adoption of the modified ecosystems services approach...[Herbert Smith Freehills]]. [e.g. alternative to state/UN institutions- International Rights of Nature Tribunal. The Tribunal is involved in reframing and adjudicating environmental and social justice cases in light of earth jurisprudence. In each case, the Tribunal recommends actions for reparation, mitigation, restoration, and prevention of harm. [Global Alliance for the Rights of Nature]

3. Legal Rights

The recognition of legal & moral rights to life, dignity, and preservation has become a universal phenomena. [UN Report – Harmony with Nature]

[E.g. The Constitutional Court of Colombia recognized the Atrato River and its tributaries as living entities that support other forms of life and culture, making them a subject with rights and deserving of special protection.]

4. Laws & Amendments

Governments across the world have made reforms in order to enforce the protections. In addition, several declarations have been adopted by UN and non-UN agencies.

[E.g. Ecuador Constitution: The 2008 Constitution of the Republic of Ecuador adopted rights of Pacha Mama or nature, which include integral respect for its existence, life cycles, structure, functions, and evolutionary processes, as well as restoration. The Constitutional Court issued a series of mandates protecting nature, including flora and fauna.

Laws & Movements

The Africa Earth Jurisprudence Movement : The movement is focused on rights of nature cases, campaigns to recognize ecocide as a crime and indigenous peoples struggles to defend sacred territories... [Rhoades].

Australia: In 2017, the Parliament of Victoria, Australia, passed the Yarra River Protection (Wilip-gin Birrarung murrong) Act. In the Act, the Yarra River was legally recognized as an indivisible living entity that deserves protection, and the intrinsic connection of the traditional owners to the River and their role as custodians of the land and waterway which they call Birrarung were recognized.

[See *UNGA Report 2018 for further details*]

Romania in 2018 passed the Mountain Law . Article 1 of the Act ; This law regulates the modes of sustainable and inclusive development and protection of the mountain area...

Swiss Government : In the 1990s, the Swiss Government enshrined the rights of living creatures into their constitution, and in 2008, The Swiss Federal Ethics Committee issued guidelines in their report, the dignity of living beings with regard to plants - Moral consideration of plants for their own sake.

Under the Gene Technology Act, 2004 in Switzerland - dignity of creatures—animals, plants and other life forms is to be considered in any research. Plants have inherent worth & should not be used frivolously.

[Shawn Harmon, 2009]

Adoption of Instruments

Several legal & policy frameworks within the domestic, regional & global systems have evolved over the years.

The field covering the relationship of human beings with nature includes a set of both binding & non-binding instruments;
Multilateral frameworks,
Bilateral agreements,
Declarations,
Resolutions,
Policy Documents.

[The following slides briefly cover the declaration on Rights of Mother Nature, on Rights of Mountains & Rivers. Also, the multilateral convention on Biodiversity and related resolutions].

UNIQUENESS OF THE PROCESS

The translation of earth consciousness into frameworks of norms, processes and mandates is an integrated process involving the contributions of states, organizations & communities.

The binding & non-binding instruments adopted can be viewed as a part of the larger framework of norms and principles on the subject.

The interrelation and reliance on different approaches and perspectives can be viewed as one of the defining features of the existing and emerging frameworks for preservation & protection of Earth.

Universal Declaration of the Rights of Mother Earth, 2010

The Draft Declaration was an outcome of the Cochabamba World Conference on Climate Change and the Rights of Mother Earth [IUCN].

The Declaration;

...gratefully acknowledging that Mother Earth is the source of life, nourishment and learning and provides everything we need to live well; Mother Earth is a living being. Mother Earth is a unique, indivisible, self-regulating community of interrelated beings that sustains, contains and reproduces all beings.

There are proposals for A Declaration for the Rights of Nature- aimed at balancing human needs and interests with the needs and interests of other living beings.

[See UN 2020 Conference Agenda - 9th International CONFERENCE - The Rights of Nature for Peace & Sustainable Development]



Inherent rights of Mother Earth;

- the right to life and to exist;
- the right to be respected;
- the right to full and prompt restoration the violation of the rights recognized
- the right to regenerate its bio-capacity and to continue its vital cycles and processes free from human disruptions;
- the right to water as a source of life;
- the right to be free from contamination, pollution and toxic or radioactive waste;
- the right to maintain its identity and integrity as a distinct, self-regulating and interrelated being;

Universal Declaration of River Rights, 2017

Earth Law Centre- Draft Declaration

All rivers are entitled to the fundamental rights which arise from their very existence on our shared planet.

Each river shall be entitled to a guardian to monitor & enforce its rights.

Governments shall ensure adequate funding to realise these rights.

All rivers are legal entities that possess legal standing in court of law.

“The Declaration draws from victories for the rights of rivers worldwide, as well as scientific understandings of healthy river systems”. [Organization of Nature Evolutionaries, 2018].“

...the appointment of representatives with a legal responsibility to speak for the river in decisions about water use and management is a powerful idea [in light of New Zealand Act, 2017]... Creating legal opportunities and responsibilities to articulate and promote the interests of non-human beings as co-inhabitants with (rather than subjects of) human societies would bring a new environmental ethic into decision making, encouraging more socially and ecologically sustainable ideas and practices. It is time to re-imagine the river”. [Strang, 2020].



RIVER RIGHTS

Right to flow

The right to perform essential functions within the ecosystem

The right to be free from pollution

The right to restoration

Framework for Mountains



The United Nations has adopted a series of instruments identifying the commitments to protection and preservation of mountains.

In 1992, at the UN Conference on Environment and Development signed a plan for action, Agenda 21, which included agenda Managing Fragile Ecosystems: Sustainable Mountain Development.

The aim was to involve stakeholders to commit to;

1. Maintain and enhance the conservation, health, vitality and stewardship of mountain ecosystems for their inherent value...

2. Improve the social and economic well-being and livelihoods of, and opportunities for, both mountain people...

3. Empower and enable mountain people to be fully engaged in the decision-making processes that determine the future of mountain communities and ecosystems... particularly in light of global climate change and globalization processes.

[*Mountain Partnership Governance and Strategy 2018-2021*]

The SDM 2019 Report stated;

“Mountains are key ecosystems, providing goods and services to the entire planet and supporting the livelihoods of a vast number of people”

[*Sustainable Mountain Development [UN GA Report, 2019]*]

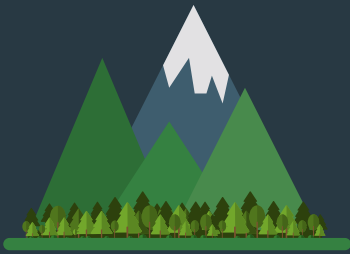
The Ranikhet Declaration adopted in 2019 on the Mountain Partnership Products initiative includes the following commitments;

-Sustain production systems that safeguard the health of ecosystems and humans, and provide safe food for people;

-Work towards the conservation of traditional practices and embrace the whole basket of products coming from mountain farms...

[*FAO-Mountain Partnership Secretariat*]

“Mountains can be safely called cradles of diversity. Single-discipline studies have resulted in a deeper understanding of the processes related to the formation of mountains, their climates and their biodiversity. It is now time to harness our detailed understanding of specific taxa and focused aspects of geological and climatic processes to integrate this knowledge across disciplines, for a better understanding of mountain biodiversity”
[Perrigo, Hoorn & Antonelli, 2019].



Inherent Rights of Mountains

A Mountain's right to retain their natural structure.

Freedom from excessive and destructive human influence.

A Mountain's right to its own ecosystem, and the extension of a Mountain's rights to all beings and things with immediate ecosystem.

A Mountain's right to human recognition of their inherent value: separate from utilitarian and economic value factors.

A Mountain's right to human recognition of their inherent value: separate from utilitarian and economic value factors.

A Mountains right to unimpeded waterways.

A Mountain's right to clean air.

A Mountain's right to sustainable human treatment and recreation.

A Mountain's right and a human responsibility to a reciprocal relationship in terms of resources and resource value. If We take We give.

A Mountain's right to progress and evolve naturally.

A Mountain's right to human stewardship.

Source:
Where there be Dragons.com



The United Nations-*Harmony with Nature* Agenda

A summary of the achievements towards protection of earth by states and other entities was recorded in the Harmony with Nature theme of the UN.

See, 2014 report on Adoption of laws & policy based on the interconnections between people & nature. [2014 Report]

The Report stated;

Nature and the environment must be protected not only because of their usefulness to human beings, but also because of their importance to all other living organisms that merit protection in their own right.

In the Harmony with Nature Report;

The United Nations is committed to remaining conversant with recent and forthcoming transformations and actions in law, policy, education and public engagement with regard to Earth jurisprudence and with the increasing number of public declarations, statements and calls to restore a respectful relationship with the Earth.

[See Harmony with Nature Report of the Secretary-General, UN, 2018]

Harmony with Nature is an important global theme/commitment under the new global framework deliberations.

The Global Frameworks on Nature & Human Wellbeing

Frameworks to link nature & human well being like the bio-diversity framework became popular in the 1990's with the adoption of Convention on Biological Diversity.

Biodiversity can be seen as a multidimensional concept, evolving & changing with time, and referred to as healthy ecosystems or the benefits arising from nature etc.

Environmental frameworks always couple biodiversity and human wellbeing, but not in consistent ways. Frameworks have also been developed separately by the research and policy sectors, and sometimes by both, which influences their accessibility and uptake by different sector..

A unified framework would include both the effects of human development on biodiversity and well-being and feedback from biodiversity to HWB..

[Naeem,Chazdon, Duffy, Prager & Worm, 2016]

The Biodiversity Framework

UN Decade on Biodiversity, 2011-2020

The Convention on Biodiversity [CBD] is a multilateral framework which was signed by 150 governments at the 1992 Rio Earth Summit [entered into force 1993].

The Convention has three objectives;

- # The conservation of biological diversity,
- # The sustainable use of the components of biological diversity,
- # The fair and equitable sharing of the benefits arising out of the utilization of genetic resources

In 2000, the Cartagena Protocol on Biosafety was adopted.

In 2014, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity.

In 2010, state parties to the Convention on Biological Diversity (CBD) adopted a Strategic Plan for Biodiversity 2011-2020.

Also, a Guiding Framework was adopted for states to fulfill their commitments under the CBD. The framework of Aichi Biodiversity Targets was adopted to address biodiversity loss, ensure the sustainable use of natural resources, and equitable sharing of benefits.

[See Protected Planet Report , UNEP 2018].

Sharm El-sheikh Declaration –

Biodiversity For People And Planet, CBD Conference of the Parties to the Convention on Biological Diversity, 14th Meeting, 2018

In 2018 the CBD state parties pledged to commit to [Sharm El-sheikh Declaration] ;

1. Mainstreaming biodiversity

2. Integrating the multiple values of biodiversity in all sectors and activities

3. Recognizing the role of science & traditional knowledge systems

4. Develop and strengthen multilateral agreements

5. Supporting the development and implementation of a post-2020 global biodiversity framework

6. Engage with indigenous peoples and local communities, women, youth, civil society, local governments and authorities, academia, the business and financial sectors, and other relevant stakeholders...

Mainstreaming biodiversity-
target sectors-

-HEALTH
-INFRASTRUCTURE
-URBAN
PLANNING
-COMMUNICATION
& EDUCATION
-TECHNOLOGY
-LEGISLATIVE
& POLICY FRAMEWORKS
-BUSINESS
& FINANCIAL SECTORS

List illustrative.

[See Declaration for details]

Part II: Post 2020 Framework

The Post 2020 framework involves the adoption of new perspectives and initiatives based on the experiences of the past.

Deliberations at the national, regional and global level are on-going. Stakeholders from diverse fields have come forward to contribute to the theme of Post 2020 Global Biodiversity Framework.

The emerging 2020 framework can be seen as a multi-stakeholder framework based on a transdisciplinary perspective of biodiversity and our evolving relationship with nature.

The New Global Biodiversity Framework: Themes & Targets

The attempts at defining and forging a New Biodiversity Framework are still in process. Based on the deliberations and reports published by the UN, state agencies & scholars, the following dimensions highlight the focus of most of the engagements;

1. THEMATIC AREAS
2. TARGET ACTIONS
3. FORGING AGREEMENTS & ALLIANCES
4. DATA & INDICATORS

The Conference of the Parties to the Convention On Biological Diversity CBD in the 14th Meeting, referred to the following principles underlying the preparations for a new framework;

*Participatory-
Inclusive-
Gender Responsive
Transformative
Comprehensive-
Catalytic-
Visible-
Knowledge based-
Result Oriented-
Iterative-
Transparent-
Flexible.*

e.g. Thematic areas;

1. Trade & Development
2. Peace & Sustainability
3. World Forests
4. Chemical & Wastes
5. Gender Mainstreaming
6. Poverty Eradication & Biodiversity

The list is not exhaustive .

e.g.Targeted actions;

1. Mainstreaming biodiversity
2. Measuring & Monitoring results
3. Quantified indicators & targets
4. Transdisciplinary approaches
5. Integrating Science & Knowledge Systems

The list is not exhaustive .

The following pages briefly cover – *Bio-Trade, Role & Use of Indicators in light of the new global framework.*

A New Biodiversity Framework-2020 Bio-Trade Initiative [UNCTAD]

The Post-2020 framework will aim at generating transformational as opposed to incremental change. The BioTrade Initiative promoted by UNCTAD... can be used to make a positive contribution to the conservation, restoration and sustainable use of biodiversity.

BioTrade refers to the collection, production, transformation and commercialization of goods and services derived from biodiversity under environmental, social and economic sustainability principles and criteria – known as the BioTrade Principles and Criteria.

[Post-2020 global biodiversity framework , UNCTAD]

Trade & Development –

“2020 is a big year for biodiversity because under the Convention on Biological Diversity [CBD], a new Global Biodiversity Framework is being negotiated”. This framework will define targets and pathways for the conservation and management of biodiversity for the next decade and beyond.

[UN Conference on Trade & Development].

Core Objectives of Bio-Trade Initiatives;

- 1.Promotion of fair & Equitable sharing
- 2.Sustainable trade of goods & services derived from native diversity.
- 3.Foster interest of global financing facilities in promoting ethical trade.
- 4.Facilitate private sector investment and involvement.
- 5.Assist in mainstreaming the conservation and
- 6.Sustainable use of biodiversity into relevant sectoral or cross-sectoral plans, programmes and policies,

Recommendations for Technical Support and Cooperation;

- 1.Transdisciplinary approach
- 2.Co-producing knowledge
- 3.Infrastructure support for emerging technology and innovation •
- 4.Valuation of ecosystem services
- 5.Access to information & data – building capacities to apply & supply it.

[Stratfords & Roberts- UK Delegation, Thematic Consultation on Capacity-building and Technical and Scientific Cooperation for the Post-2020 Global Biodiversity Framework- CBD-2020]

TARGETS

Targets & Measurability in the New Framework

The Post-2020 Biodiversity Framework: Targets, indicators and measurability implications at global and national level , OECD International Expert Workshop, 2019

&

Post-2020 Global Biodiversity Framework: Discussion Paper , UNEP-CBD, 2019 [Preparations For The Post-2020 Biodiversity Framework]

The Post-2020 global biodiversity framework;

1. Should serve as a universal framework
2. Needs to foster transformational change required to address biodiversity loss
3. Should link to and support.. other frameworks and processes [2030 Agenda for Sustainable Development, the Paris Agreement on Climate Change, and other relevant processes adopted under the biodiversity-related conventions.]
4. Should have a focus on implementation, an effective process for monitoring and effective review [in addition to existing mechanisms]

Aims [OECD Report, 2019];

1. Indicators are the cornerstone of the post-biodiversity framework.
2. The use of existing data at global & multi-country level could help inform future targets.
3. Greater simplicity and well defined targets in the post 2020 global diversity framework.
4. Mainstreaming bio-diversity both in terms of targets and indicators.

New Indicators;

1. New indicator framework should build on existing indicators and new ones adopted.
2. Adopt indicators that are measurable across countries.
3. Fill in the gaps in the existing indicators adopted. [Aichi Targets].

Universalizing Concepts & Principles

MULTIPLE FRAMEWORKS

It is undeniable that different strategies & frameworks [rights framework, gender & biodiversity framework, peace & security framework, business & finance framework etc.] exist in order to further the cause of earth preservation & protection. This necessitates the search for convergences in concepts, values & objectives.

RE-DEFINING

The on-going discussions on building new & strengthening existing frameworks have already created a need for re-thinking on and re-defining key concepts and principles.

CROSS-FRAMEWORKS

Acknowledgement & awareness of cross-frameworks would facilitate activities such as monitoring, management, restoration, litigation, data collection etc. In general, it would facilitate all economic, political, social & cultural activities dedicated to the core objective of living with earth and all its life forms.

OTHER EVOLVING FRAMEWORKS

Biodiversity Finance, Biodiversity & Business, Natural Capital Protocol [Consultations on-going]...

Evolving Frameworks and Legal Concepts

The expansion in the normative frameworks has brought the focus on key concepts in relation to human-nature relationships. To name a few;

DEFINING CONCEPTS :

Such as restoration, right to life & dignity.

COMPETING INTERESTS:

The parameters to assess nature versus corporate interests .[both holders of legal rights and guarantees in law].

HARMS AND COSTS:

Standards for ascertaining damages & costs for harms caused to entities in nature.

GUARDIANS AND CARETAKERS

Identification of guardians or caretakers of mother earth. [state or community]

EQUITABLE SHARING OF BENEFITS:

Defining responsibilities [particularly between different members of communities, and sharing between different countries]

SERVICES AND INDICATORS:

Define ecological services & adopt tools/indicators for measurements.



Evolving Frameworks & Underlying Principles

The Post 2020 or *new framework* can be viewed in light of the following themes and their legal-political-economic constructs ;

**MAINSTREAMING
BIODIVERSITY**

**MULTIPLE VALUES OF
BIODIVERSITY**

**STANDARDS FOR DIFFERENT
SECTORS AND DIFFERENT
ECONOMIES**

**DATA MANAGEMENT AND FILLING
OF DATA GAPS**

**INTEGRATING PERSPECTIVES-
LOCAL COMMUNITIES,
VULNERABLE GROUPS,
GOVERNMENTS, BUSINESS SECTOR,
CIVIL SOCIETY**

**STRATEGIES TO WORK IN SYNC
WITH OTHER EXISTING
FRAMEWORKS INCLUDING
CLIMATE CHANGE , DISASTER
REDUCTION ETC.**

**UNIVERSALIZATION/
TRANSNATIONALIZATION OF
EARTH CONSCIOUSNESS
PERSPECTIVES AND THE NEW
FRAMEWORK S**

The list is not exhaustive.

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