

Setting the Scene: How the Use of Environmental Rule of Law Can Support Effective Implementation of MEAs

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**What is Environmental
RULE OF LAW?**

UNEP is mandated “To lead the United Nations system and support national Governments upon their request in the development and implementation of environmental rule of law with attention at all levels to mutually supporting governance features...”

- Advancing Justice, Governance and Law for Environmental Sustainability, UNEP Governing Council, Decision 27/9



ENVIRONMENTAL RULE OF LAW

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Importance of Environmental Rule of Law

- Implementation and enforcement of environmental laws and regulations often fall short
- Provides a framework to address the gap between environmental laws on the books and environmental protection in practice
- Provides foundation for environmental rights to be exercised



EROL applies the Rule of Law components in the environmental context



**Components of Rule of
Law**

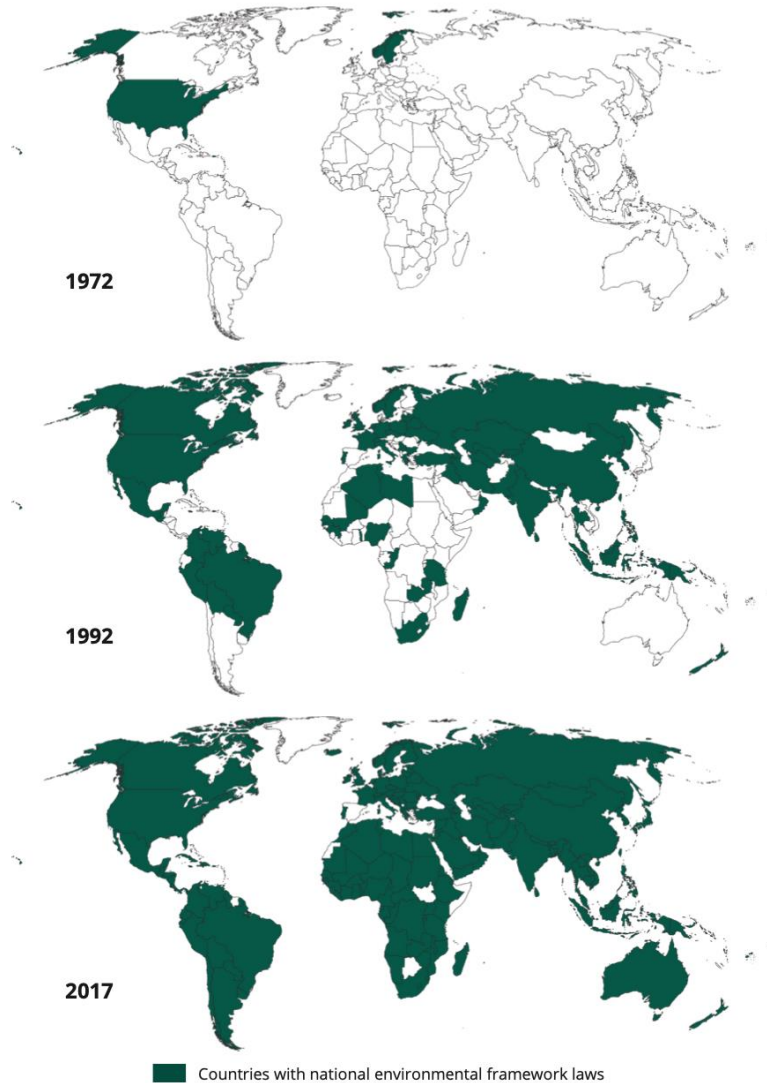
Core Elements of EROL

- Fair, clear and implementable laws
- Access to information, public participation, and access to justice
- Accountability and integrity of institutions and decision makers
- Clear and coordinated mandates and roles
- Accessible, fair, impartial, timely and responsive dispute resolution mechanisms
- Recognition of mutually reinforcing relationship between rights and EROL
- Specific criteria for the interpretation of environmental law

Implementation, compliance and enforcement of environmental law: The Gap Between Law and Practice

- Despite proliferation of environmental laws since 1970s, an implementation, compliance and enforcement gap exists between environmental law and practice

Figure 1.1: Countries with Framework Environmental Laws (1972, 1992, and 2017)



**Why Environmental
RULE OF LAW?**

1. Understanding and improving EROL is important for addressing the unprecedented challenges facing the planet and human societies

- Strong environmental laws and institutions are essential for achieving environmental goals and development of effective responses to pressing environmental crises.
 - Laws provide requirements, standards, procedures & rights necessary to achieve environmental objectives, and strong institutions are necessary to give force to those environmental laws.
- EROL also provides economic and social benefits by:
 - Improving the protection of the natural environment
 - Protecting public health and economically valuable natural resources
 - Increasing transparency and reducing corruption which in turn can attract investment,
 - Supporting sustainable economic growth and ensuring that benefits are fairly shared.

Understanding and improving EROL is important for addressing the unprecedented challenges facing the planet and human societies -2

- Absence of EROL undermines good governance beyond the environmental sector.
 - Consistent, fair and effective implementation of environmental law strengthens perceived legitimacy of government action and builds public confidence in institutions, which contributes to greater security and can reduce conflict and promote peace.
- Efforts to improve governance and implementation of environmental law are not new
- This raises the question: Why is it important to focus on environmental rule of law, or even use the term 'environmental rule of law' instead of just 'rule of law'?

Understanding and improving EROL is important for addressing the unprecedented challenges facing the planet and human societies -3

- **First**, the concept of EROL represents a targeted and strategic policy focus on implementation and enforcement.
- **Second**, the term EROL situates the issue as a rule of law problem, not just an environmental problem.
- **Third**, the term acknowledges that there are ROL issues, dynamics, and considerations that are particular to the environmental context.
- **Finally**, the term engages a broader set of stakeholders and interests to generate political will among actors beyond the environmental community.

2. The human right to a clean, healthy, and sustainable environment is a critical component of EROL

- On 28 July 2022, the United Nations General Assembly adopted a historic resolution that recognized everyone's human right to a clean, healthy, and sustainable environment (A/RES/76/300)
- Roots of right to a healthy environment traceable to the Declaration of the United Nations Conference on the Human Environment in Stockholm Declaration, 1972
 - The first principle of the Stockholm Declaration states that people have “the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and ... [people also bear] a solemn responsibility to protect and improve the environment for present and future generations”. The advancement and implementation of the right to a healthy environment are firmly rooted in the work of UNEP.
- Resolution explicitly affirms “that the promotion of the human right to a clean, healthy and sustainable environment requires **the full implementation of the multilateral environmental agreements** under ... international environmental law.”

3. The right to a healthy environment is accelerating the implementation of MEAs in particular the Convention on Biological Diversity.

- **The General Assembly resolution is changing the world.** It has inspired and underpinned action in courtrooms.
 - They have inspired and underpinned action by Governments.
 - They have inspired and underpinned action by children and youth. By business. By environmental defenders.
- **And it has led to more inter-governmental recognition** - In 2022, the Governments took us even further by explicitly recognizing the right at the recently concluded climate and biodiversity conferences.
 - For example, the Kunming-Montreal Global Biodiversity Framework demonstrates extensive integration of human rights. It sets the world on a course to take a human rights-based approach in biodiversity-related actions. It recognizes the rights of indigenous peoples and local communities. It recognizes the essential role of environmental human rights defenders, integrating this into specific targets of the framework.

4. International Cooperation is key in achieving a Healthy Planet for All

- **The international community can play a critical role to implement environmental rule of law and to realize the right to a healthy environment.**
- **The international community should enhance a multistakeholder approach.**
 - In speaking of the role of the international community, one must refer not only to those from the executive branch of government, but also to parliamentarians.
 - Legislators can ensure that laws include provisions on access to environmental justice. Legislators can contribute to having access to environmental justice extended to everyone. This can be in their exercise of the power of the purse, and their oversight functions.
- **The international community should strengthen cooperation at all levels.** There is no national boundary for environmental harm.
 - Environmental injustices go beyond national borders. We've observed rights holders claiming their rights at many different levels – at the national, regional, and international levels.
 - It is encouraging to see access rights being triumphed at the regional levels such as through the Aarhus Convention and the Escazu Agreement. Other regions such as Asia-Pacific and Africa could consider a similar instrument.

International Cooperation is key in achieving a Healthy Planet for All - 2

- **The international community should accelerate the implementation of the environmental rule of law to address environmental injustices and promote rights.** Environmental rule of law highlights environmental sustainability by connecting it with fundamental rights and obligations. Environmental rule of law also provides a foundation for environmental rights including the rights to access information, to participate in environmental decision-making, and access to justice.
- This is where the MVP for the implementation and progressive development of international environmental law comes in!

Thank you

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