


# INSPIRING ACTIONS TO CREATE NEW LAWS ON CLIMATE CHANGE



These constitute soft laws, international documents like declarations, compacts, and general comments, which are not binding but shape and influence the obligations countries

The climate negotiations under the UNFCCC are the main form of international climate action. Yet, there are many international and local initiatives outside of multilateral negotiations that push forward ambition and creativity on climate action. This 2-sider features a couple of these projects, offering insight into actions being taken below or beyond the state level by both state and non-state actors.

## THE BACKGROUND

There have long been a variety of initiatives, aimed at inspiring action and aiding the development of international

environmental law, that are working alongside the established international climate governance regime. These initiatives are not legally binding and are based on the commitment of a group of ambitious individuals and/or countries. Nevertheless, they can form an important reference point in the interpretation on international environmental law and/or its development. Some examples are explored below.

### THE EARTH CHARTER

Begun in 1994 and officially launched in 2000. The Charter took years to draft because it consulted thousands of people from around the world and joined people "together to bring forth a sustainable global society founded on respect for nature, universal human rights, economic justice, and a culture of peace." The Charter proposes a series of interdependent principles to inform climate action that integrates environment and society. These principles focus on respect for all life, ecological integrity (including changing patterns of production and consumption), and the necessity of social and economic justice. It also highlights the importance of non-violence and peace, including the right to participate, the need to demilitarize, and the need to provide education on how to live sustainably.

A key principle of international environmental law - allows preventive measures to be taken in cases where harm is yet to materialise but there is uncertainty about risk.

### THE GLOBAL PACT FOR THE ENVIRONMENT

An ongoing initiative to create an international legal text affirming environmental rights and duties. This could provide an umbrella for the current patchwork of international and national environmental laws that cover the many different environmental threats (e.g. waste, climate, pollution). It is coordinated by an international network of lawyers and was launched at the UN General Assembly by the French government in 2017. The treaty project has since moved to being negotiated at the United Nations Environment Programme (UNEP). A high-level political declaration came out of these negotiations in March 2022. This offers legislators, courts, companies, and civil society a reference point on environmental rights and duties.

### THE OSLO PRINCIPLES ON GLOBAL CLIMATE CHANGE OBLIGATIONS

Created by global legal experts in 2015. These Principles offer a legal interpretation of governments' existing moral and legal duties to take action to avoid the destructive effects of climate change. As this type of scholarship is considered a source of international law, the Principles are concretely used in court cases to break new legal ground. The Oslo Principles are a tool to:

- **Hold countries and businesses accountable** - the enjoyment of rights, such as the right to life, health, and housing, are threatened by climate change. The Oslo Principles highlight the **Precautionary Principle** which explicitly puts the focus on prevention as the best way for countries to fulfil their obligations to their people.
- **Acknowledge that different countries have different responsibilities and capabilities** – everyone needs to do their part, but countries with a history of emissions and current large carbon footprints are expected to contribute more to climate action than other countries.

The Oslo Principles are an interpretation of existing laws. They have informed how some courts around the world read the treaties governments sign up to. This is despite their being only suggestions from society. The principles show that making international law stronger does not only happen in negotiations and court rooms.

This page is an excerpt from QUNO's "People's Climate Empowerment Series", a publication that explains international efforts on climate change and how these can help us support fair, ambitious and inclusive climate action.

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<https://quno.org/resource/peoples-climate-empowerment-series>

## NEW WAYS OF IMAGINING ENVIRONMENTAL LAW

The Earth Charter, Oslo Principles and Global Pact prioritize an understanding of the human right to a healthy environment as protecting nature for the sake of people. There are also new and experimental approaches outside the United Nations that grant rights to nature itself, including:

The **Ho-Chunk Nation** amended its constitution in 2018 to recognize that “ecosystems, natural communities, and species within the Ho-Chunk Nation territory possess inherent, fundamental, and inalienable rights to naturally exist, flourish, regenerate, and evolve”. This legal change shows that tribal governments, as well as counties, provinces, towns, and cities, are places where innovative environmental law can be created and pushed upwards.

The **Constitution of Ecuador**, which states in Article 71 that “nature, or Pacha Mama [...] has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes.” It provides an example of how the rights of nature can be protected at the national constitutional level.

The **Te Awa Tupua Bill** of Aotearoa/New Zealand is an example of implementing rights to nature. The bill grants the Whanganui River legal personhood. By working with local iwi, the law would ensure that the river’s rights are protected through Indigenous community-led guardianship, management, restoration, and investment.

The **Universal Declaration on the Rights of Mother Earth**, led by Bolivia and Indigenous peoples in 2010, seeks to shift the understanding of nature as merely a resource for human beings. It proposes in Article 1.7 that “the rights of each being are limited by the rights of other beings and any conflict between their rights must be resolved in a way that maintains the integrity, balance and health of Mother Earth.” This means that the wellbeing of the planet is linked with and inseparable from the wellbeing of all people and other living beings.

A common thread in all these proposals are the Indigenous cultural, political, and legal ideas to help protect our planet, which are also recognized and protected under the **United Nations Declaration on the Rights of Indigenous Peoples**. Indigenous peoples are among those most vulnerable to climate change, as well as consistent and courageous leaders in the climate movement.

### STOP ECOCIDE – THE CAMPAIGN TO MAKE ECOCIDE AN INTERNATIONAL CRIME

An ongoing campaign by the Stop Ecocide Foundation is advocating for the inclusion of ecocide, defined as the extensive loss of an ecosystem in a territory by either human or natural causes, under the international crimes recognised by the International Criminal Court (ICC). The ICC covers genocide, crimes against humanity, war crimes, and crimes of aggression. Cases may be referred by the United Nations Security Council or be initiated by the prosecutor’s own initiative. In order to make ecocide a recognized crime under the ICC, a member country would have to seek agreement from two-thirds of its fellow member States.

The recognition of ecocide would establish a duty of care for governments to protect the environment and prevent destruction. Criminal law is about individual responsibility, and so, if ecocide became a crime under the ICC, it would not be governments on trial, but individuals with power and responsibility, such as heads of states.

### THE VANUATU ICJ INITIATIVE – PURSUING AN ADVISORY OPINION ON CLIMATE CHANGE FROM THE UN’S INTERNATIONAL COURT OF JUSTICE

In 2021, the government of Vanuatu, an island nation on the frontline of the climate crisis, began a campaign to seek an advisory opinion from the ICJ. The ICJ is the legal branch of the United Nations and may give advisory opinions on legal questions – outlining State responsibilities and the legal consequences of these being breached - referred by UN organs. In this case, the General Assembly will vote on the proposal tabled by Vanuatu and supported by more than 80 other nations, to determine whether the request is made.

Though an advisory opinion is not legally binding, the coalition is seeking the opinion to gain clarity on existent laws on climate action and obligations to prevent harm to the environment and protect human rights. The campaign asks “How can these obligations be applied to spur the transformative climate action by States that is required?” An advisory opinion would certainly contribute to the solidity of international environmental law.

The Quaker United Nations Office (QUNO) is an expert observer of the UNFCCC, IPCC and Human Rights Council. QUNO has been supporting work on climate change at the international level through diplomacy, advocacy and education initiatives since 2012. Please consider making a donation to help us continue with this work.