



International Center
For Human Sciences - Byblos



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RULE OF LAW PROGRAMME
MIDDLE EAST AND NORTH AFRICA

REPORT

ENVIRONMENTAL LAW: WHAT DOES THE FUTURE HOLDS UPON US? Perspectives from the Arab States Region



INTERNATIONAL CENTER FOR HUMAN SCIENCES
UNESCO BYBLOS 2022



**REPORT
OF THE REGIONAL CONFERENCE ENTITLED
"ENVIRONMENTAL LAW: WHAT DOES THE FUTURE HOLD UPON
US? PERSPECTIVES FROM THE ARAB STATES REGION"
Byblos, 21 SEPTEMBER 2022**

SUMMARY

In a world threatened by an environmental crisis of which people all around the world feel terrible consequences on their daily life, it seems urgent to build a new resilient and sustainable world. In every society and civilizations throughout history, sets of laws have been the cement to build a world where human beings can be defended and of which rights are protected. It is then more and more logical to build a new specialty in Law: Environmental Law. This new approach on protecting the biodiversity, our landscapes and well-being is now spreading on a both national and international level. The main objectives of conference entitled "Environmental Law: What does the future hold upon us? Perspectives from the Arab States region", were to highlight on the impressive expansion of this approach of Law in order to reach a more sustainable world and to introduce the evolution of the practices of Environmental Law in a changing world. Thus, it is focusing on the Arab States region to apprehend geographically how does this region is using Environmental Law through a comparative approach.

As well as the conference, The CISH aims to spread awareness on Environmental Rights and Law through the Creation of a 3D Cube displayed at the entrance of the CISH premises.

The conference was organized under the patronage and presence of H.E. The Minister of Environment Dr. Nasser Yassin, by the International Center for Human Sciences (CISH) - UNESCO, Byblos in partnership with Konrad Adenauer Stiftung and in collaboration with the UNESCO Chair on Environmental Law and Sustainable Development at Hamad Bin Khalifa University in Qatar, and with the Association of Environmental Law Lecturers in Middle East and North African Universities, took place on September 21st, 2022 at the CISH premises in Byblos - Lebanon.

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1. DISCUSSION TOPICS

A. ADVANCING LEGAL TOOLS: A MAJOR PRIORITY TO PROTECT THE ENVIRONMENT

The session on “Advancing Legal Tools: A major priority to protect the environment” included presentations on criminal protection of the environment. The session also highlighted on the role of judges in the advancement of Environmental Law and the disruptive education as a tool to teach environmental law.

The session highlighted on the idea that it is time to expand the crime and increase the punishment. Professor Riyad Fakhri, Director of the Business Law Research Laboratory, Hassan First University Morocco, defined environmental crime as any illegal act that directly harms the environment. He discussed some actions that have been identified by some international bodies and forums as environmental crimes: the illegal trade in endangered wild species - Smuggling of ozone-depleting substances - Dumping and trafficking in hazardous waste - Illegal, unreported and unregulated fishing - Prohibited logging and related trafficking in stolen timber.

Professor Fakhri elaborated several ideas as follow: Environmental crime affects not only an individual or an individual group, but the entirety of individuals or interests of human society. And actions harmful to the environment constitute a quarter of the largest criminal area in the world after drugs, counterfeiting and human trafficking. At the global level, the most criminal areas in the environment are illegal trade in wildlife species, illegal forest exploitation and illegal logging, illegal hunting, pollution crimes such as dumping waste and hazardous and toxic materials, exploitation of minerals and illegal mining.

Similar to the various types of crimes, environmental crime has three components, including behavior: It is the material behavior issued in the form of a positive or negative activity by a natural or legal person. Result: It is the change that occurs in the world as a result of criminal behavior, whether it has reached the stage of harm or remains in the stage of danger, and the causal relationship is represented by the flow between the behavior and the criminal outcome, so that the result, whatever its form, came or was achieved because of that behavior, whatever its form.

Environmental crime is characterized by a diffuse consequence in which there are many choices and victims, and its consequences may extend in the geographical and temporal scope to catch up with human generations that do not yet exist.

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Environmental crime is characterized by a diffuse consequence in which there are many choices and victims, and its consequences may extend in the geographical and temporal scope to catch up with human generations that do not yet exist. Environmental crime in national laws may be a selective crime. The appointment of the natural person responsible for the crime of environmental pollution may be done by one of the following means: By the law itself, which is known as legal attribution. Either by material attribution that depends on the methods and techniques applied in common law to identify the perpetrator of the crime, or by proxy, and it is manifested in the employer or the head of the institution choosing a person responsible for all the waste that is committed during or because of the activities practiced by the institution, from among its employees.

In the field of internal environmental criminalization: either legislative inflation and many dispersed legal texts, or a single specific text that cannot cover all acts harmful to the environment. The problems lie in the inability of the texts to provide adequate solutions to the complex environmental problems resulting from interfering with the increasing damage to the environment, the inadequacy of the texts as a result of not constantly updating them to meet a rapidly changing environmental reality, and the inability to implement the texts due to the absence of legal and institutional implementation mechanisms.

There are environmental crimes inspectors and officers of general jurisdiction such as the Public Prosecution, the investigative judiciary, security officials from police deans and officers, officials of the Ministry of Interior in supervisory positions, police inspectors who have been granted the qualities of judicial police officers by a decision of the just minister, and the gendarmes who have been empowered with the qualities of police officers. There are environmental crimes inspectors and officers with special competence, such as employees and officials of the administration and public facilities, and employees and agents belonging to the institutions and public facilities charged with protecting the environment. Hence many devices exist, but there is little effectiveness. There are difficulties to prove the act and the perpetrator of the act.

At his turn, Judge Iyad Bardan, General attorney for the environment for Bekaa region started by affirming Lebanon's richness in terms of the country's geographical location, climate, and natural resources. These characteristics have greatly impacted the Lebanese demographic scene, leading to an internal and external flux of population, a phenomenon that has reflected its effects on the Human production pattern of Lebanon. The country has transformed from a rural agricultural society to an urbanized society, a displacement that has led to desertification and increased pressure on city infrastructures and especially the food industry.

These changes in the Lebanese consumption pattern have caused dangerous arbitrary growth around Lebanon, widespread pollution, and the poorest environmental reality in the country. All of this has led to a lack of implementation of environmental laws by Lebanese authorities, what judge Bardan called "A conspiracy against the environment in Lebanon". The reasons for the unsystematic approach by the Lebanese government to environmental issues can be summarized by four causes: the absence of a comprehensive Lebanese national environmental strategy, the lack of unity in legislation that tackles the matter of environmental violations coupled with negligence of executive authorities, the inadequate mechanisms in place by monitoring and prosecution agencies in charge of suppressing environmental violations and the failure to comply with the necessary immediate environmental laws in Lebanon.

Protecting the environment is not limited to the mere application of environmental regulations and the imposition of penalties when violating said regulations, it is awareness, citizenship, and the love of one's homeland. The law and sanctions in place can only help to maintain order.

Three thousand of the criminal prosecutions pursued by the Public Prosecution office in Bekaa for the last five years have been centered around 4 topics: Prosecutions related to violating the law of quarries, crushers, and sandboxes; Investigations related to the pollution of the Litany River; Prosecutions related to violating the hunting law; Supplements related to violating the law on water.

As for Professor Hilary Christina Bell, Assistant Professor at Hamad Bin Khalifa University College of Law in Qatar, she presented UNESCO's 1996 report "Learning to know, learning to Do, learning to live together and learning to be", a report that changed the international pillars of education.

Professor Bell addressed the fact that Environmental Law and Climate change are problems that affect us socially and individually, and that the solutions in place today are failing to work. She affirmed that the publication of the UNESCO education pillars has changed the approach to education on the matter. With environmental law, the need for environmental lawyers and legal actors has never been more existential, environmental law by itself is not an ideological goal, it is an important course and subject matter to be given in education in schools and higher education institutions.

B. FUNDAMENTAL CHALLENGES OF ENVIRONMENTAL LAW FROM A HUMAN RIGHTS PERSPECTIVE

The session on “Fundamental challenges of environmental law from a human rights perspective” included presentations on Environmental Law and future displacements (Human rights and Refugee Law) followed by a session on Environmental law and governance issues. And a presentation on the transition to a Sustainable Future: Regulatory, Political and Practical Challenges.

Dr. Jinan Bastaki, Associate Professor at United Arab Emirates University and Oxford University, discussed the impact of Climate Change which is already visible in our lives. She addressed the lack of international preparation in dealing with the human consequences as a result of these environmental disasters.

The temperature in our region has increased by 1.5C over the past century, in countries like Pakistan for example, most people are predicted to emigrate to other countries. These people have fundamental rights to live, to self-determination, and to food. They are protected by Public International Law.

Principles of Environmental Law can be used all together to protect these people, in parallel, the ones responsible for the effects of climate change have to protect those who are displaced.

Then, Mr. Habib Maalouf, environmental expert and journalist, believes that moral laws did not come until disasters and that the first law known to mankind is the law prohibiting incestual marriages, a law aiming at avoiding disastrous consequences such as deforming children. Climate disasters have become such a threat to the human race, but on a global scale, environmental legislation was not at the level of environmental disasters. Those who have the power to pollute are threatening existence. Scientific research as well as legal innovations on the topic are beyond the laws of nature: we must produce a new culture and new rights working on several axes to avoid the current environmental situation.

At his turn, Dr. Jack Williams, Adjunct Professor at the American University of Kurdistan and President of the Institute for Global Negotiation discussed the challenges concerning the implementation of environmental reforms, starting by addressing the financial burden and the need for investment to install solar energy.

There is a need to have discussions concerning these topics, to think about modes of finance for projects and the ownership of things. The current state is that we have to buy a lot of energy for use in projects to see some motivation. He stated that we need to change the rhetoric on climate change.

C. THINKING THE ISSUES OF ENVIRONMENTAL LAW GEOGRAPHICALLY – PERSPECTIVES OF THE MIDDLE EAST

The session on “Thinking the issues of environmental law geographically – perspectives of the Middle East” included presentations on the Arab cooperation for the protection of the environment and the achievement of the Paris agreement goals promoting sustainable development in the Arab countries. The second presentation addressed the topic of Energy Law and Environmental Law with an emphasis on the MENA region. The last presentation was about Environmental activism and the role of environmental civil society.

Dr. Omar Al Khataibeh discussed that Arab agreements are regressing in light of global competition and that this has harmed sustainable development in the Arab countries and the citizens of the Arab region. The first cosmic phenomenon, almost the largest in the world, met in Paris in 2015, it was signed by 195 countries indicating the interest of the international community and the importance of climate change. The agreement dealt with the topics of “The human”, “The environment”, “The state”, and “The institutions of civil society”.

At her turn lawyer Christina Abi Haidar, a specialist in Governance and Development and an expert on the environment, energy, oil, and gas, highlighted on the relationship between the energy sector and the environment and that the contemporary challenge facing any government is ensuring the basic energy needs of its nation.

In our globalized world, providing energy needs and combatting climate change is a task that requires international cooperation, especially since alternative "friendly" energy sources are available. We find that international energy law based on the principles of government contract is far from international environmental law based on the rules of international obligations of the State.

There are differences in legal resources between international environmental law and international energy law. They are both branches of public international law, a common point, and both are based on article 38 of the ICJ statute.

The speaker stressed the importance of renewable energy and the imperative need that in environmental matters we must think globally but act locally.

Last but not least, Dr. Zeina Moneer, a Postdoctoral Fellow at the Research Institute for a Sustainable Environment of the American University in Cairo, divided her presentation into three aspects:

The first aspect addressed the situation of environmental activism in the MENA region ever since the Arab Spring, a movement that Dr. Moneer described as being a green movement across the region. Environmental activism since the uprisings share some core characteristics; the core role that social media has played in all activism platforms for better publishing and avoiding censorship, the rebirth of civil society in a wider trend of democratization in the region, the deep social and political underpinning of the younger generation who are being drivers of change, and finally the consistent pressures to challenge the discourse of the State who always picks economic growth over environmental protections when faced with the choice on the matter.

The second aspect addressed the main problems that civil societies face in the region concerning the environment. She started by saying that most research tends to show that the region is heading into a worsening water crisis due to climate change and that the Arab region relies heavily on food imports to maintain good security. There is some improvement on the matter, as some Arab countries such as Tunisia have incorporated into their 2014 constitution that environmental protection and a clean environment were rights of every citizen.

The final aspect was the status of civil society in the Arab world, which has been gaining ground in the last decade but is still facing difficulties. Regimes often accuse NGOs of being internationally funded spy organizations aiming at tumbling local regimes, this has fueled negative public opinion on NGOs. Said organizations have had to revert to local government funding, forcing them to be less and less independent and comply with government policies.

Dr. Moneer ended on an optimistic note and stated the importance of the role that NGOs and civil society should play soon, especially with the upcoming COP27 in Sharm El Sheikh.



2. RECOMMENDATIONS

On the proposal of the experts and speakers, recommendations were drafted as follow:

- The judicial system must be amended, taking into consideration the environmental field: creating specialized courts in environmental disputes, a national public prosecution specialized in the environment, and adapting criminal penalties...
- It also raises public awareness on environmental issues, relevant regulations, and applicable laws.
- Strengthening the capacities of various actors, including control and inspection officers, and judges, in terms of understanding the technical aspects of environmental issues...
- Improving cooperation and coordination between different actors: monitoring and inspection themselves, between enforcement agencies and judges, between law enforcement and civil society.
- Applying partial reconciliation procedures in environmental crimes despite not being included in the criminal record of its owner. And focusing on the idea of environmental damage in civil law.
- Developing a comprehensive national environmental strategy.
- Working as much as possible to standardize environmental legislation, and preferably unifying later on environmental rules and standards.
- Strengthening legal and judicial mechanisms and institutions for the suppression of waste and environmental crimes.
- Working to impose the teaching of environmental law in universities to spread environmental culture.
- Giving the environment the necessary attention in terms of respecting environmental rules and regulations.
- Striving to produce and adopt a new environmental philosophy and a new civilized model that respects the laws of nature.
- Changing cultural and educational systems based on competition and employment in the markets.
- Changing all systems, especially the dominant ones, towards systems that mimic ecosystems.
- Supporting civil society in the areas of environment and human rights.
- Governance of financing for the environment and directing it towards environmental investments and the green economy.

RECOMMENDATIONS

- Re-drafting the Arab Investment Agreement to direct it to invest in the areas of environmental and digital creativity and artificial intelligence.
- Exploring the gaps in the legal regime and develop new frameworks and legal pathways to protect those displaced by climate change.
- Incorporating within existing and established environmental law principles the protection of climate migrants and refugees.
- Enhancing cooperation between different sections of society when designing regulations to ensure that they meet the needs.
- Bar associations require training/education in environmental law for practicing lawyers as part of their continuing professional development requirements.
- The judiciary should collaborate with law schools to share knowledge. Judges with experience in environmental disputes to share this and those without experience to engage in training.
- The research outcomes should be published in specialized journals, and make sure that these recommendations are taken into account.
- Having a big number of legal texts and NGOs working in the field without any cooperation will lead to a decrease in the effectiveness. Thus, cooperation agreements, clear road maps and joint ventures are a must.



3. ORGANIZATION OF WORK

A. VENUE AND DATE

In an old heritage house in the center of the old city of Byblos, CISH, which is unique in the world, is located in the heart of historical Byblos, the oldest Phoenician city, overlooking the archeological area that witnessed seven consecutive civilizations, over 7 thousand years.

The Conference was held at the CISH premises on 21 September, 2022



B. PARTICIPANTS

One hundred eighteen attendees participated in person in the conference sessions, including nine speakers.

The attendees came from different regions and backgrounds. Also university professors and researchers attended. Civil society and NGO's that advocate environment were also actively engaging during the round tables.



C. AGENDA

Program

8:00 – 9:00 Arrival of Participants and Registration

9:00 – 9:30 Inauguration of the 3D Cube on Environmental Law Opening Session

 **Dr. Darina Saliba Abi Chedid**, Director of the International Center for Human Sciences (CISH) – UNESCO, Byblos

 **Mr. Philipp Bremer**, Director of the Konrad Adenauer Stiftung - Rule of Law Programme Middle East and North Africa

 **Professor Riyad Fakhri**, Vice Chair of the Association of Environmental Law Lecturers in Middle East and North African Universities (ASSELLMU) (Morocco/Oman).

 **H.E. Dr. Nasser Yassin**, Minister of Environment

9:30 – 11:30 **SESSION 1: ADVANCING LEGAL TOOLS: A MAJOR PRIORITY TO PROTECT THE ENVIRONMENT**

Criminal protection of the environment, it is time to expand the crime and increase the punishment.

 **Professor Riyad Fakhri**, Vice Chair of the Association of Environmental Law Lecturers in Middle East and North African Universities (ASSELLMU) (Morocco/Oman)

The role of judges in the advancement of Environmental Law

 **Judge Iyad Bardan**, Judge (Lebanon)


Disruptive Education as a tool to Teach Environmental Law

 **Professor Hilary Christina Bell**, Assistant Professor at Hamad Bin Khalifa University College of Law (Qatar)


11:30 – 12:00 Coffee Break

12:00 – 14:00 **SESSION 2: FUNDAMENTAL CHALLENGES OF ENVIRONMENTAL LAW FROM A HUMAN RIGHTS PERSPECTIVE**

Environmental Law and future displacements (Human rights and Refugee Law)

 **Dr. Jinan Bastaki**, Associate Professor at United Arab Emirates University and Oxford University (United Arab Emirates)

Environmental Law and Governance issues

 **Mr. Habib Maalouf**, Expert and Journalist (Lebanon)


Transition to a Sustainable Future: Regulatory, Political and Practical Challenges

 **Dr Jack Williams**, Adjunct Professor, President of the Institute for Global Negotiation (American University of Kurdistan, Duhok, Iraq/Switzerland)

14:00 – 15:00 Lunch Break

15:00 – 17:00 **SESSION 3: THINKING THE ISSUES OF ENVIRONMENTAL LAW GEOGRAPHICALLY - PERSPECTIVES OF THE MIDDLE EAST**

Environmental Law in the Middle East, a comparative approach

 **Professor Damilola Olawuyi, SAN**, Chair of the Association of Environmental Law Lecturers in Middle East and North African Universities (ASSELLMU) (Qatar-Online).

The Arab cooperation for the protection of the environment and for the achievement of the Paris agreement goals promoting sustainable development in the Arab countries

 **Dr. Omar Al Khataibeh**, Director of the Jordanian Association for climate and sustainable development

Energy law and Environmental Law with an emphasis on the MENA region

 **Mrs. Christina Abi Haidar**, Attorney at Law-Governance and Development specialist -Environmental, Energy, Oil & Gas legal Expert (Lebanon)

Environmental activism and the role of environmental civil society

 **Dr. Zeina Moneer**, Postdoctoral Fellow at the Research Institute for a Sustainable Environment of the American University in Cairo (Egypt)

Moderator: **Mireille Akiki Mahfouz**, Journalist

17:00 – 17:30 Refreshments Break

- Discussion Time
- Recommendations Draft

17:30 – 18:00 Closing Ceremony

“ living together
IN A WORLD OF SHARED
human flourishing
AND SUSTAINABLE DEVELOPMENT FOR INCLUSIVE,
just and democratic societies ... ”

CISH MOTTO

D. 3D CUBE



INTERNATIONAL DAY FOR BIOLOGICAL DIVERSITY

IEL throughout the history

1972 The Stockholm Declaration

The first international document to recognize the right to a healthy environment through 26 principles.

Principle 21 confirmed one of the cornerstones of IEL, the responsibility of States not to cause damage to the environment of others.

The UN General Assembly created the United Nations Environment Programme (UNEP), the central body in charge of environmental affairs today.

1992 The Earth Summit in Rio De Janeiro

Two conventions were signed to regulate: The Convention on Biological Diversity and the United Nations Framework Convention on Climate Change (UNFCCC).

The Rio Declaration was adopted reaffirming the Stockholm Declaration and the Agenda 21 action program on environmental protection activities.

The precautionary principle, the most advanced form of prevention and response to the foreseen of modern IEL. Principle 13 which recognizes the right to information, participation, and justice in environmental matters.

After Rio and into the future



Modern times



What is International Environmental Law (IEL)?

International Environmental Law is a branch of Public International Law.

States create the rules of international law either for their own purposes or as means of facilitating the functions of organizations of which they are members.

It deals with the protection of the environment.

It governs international telecommunications, postal services, and the transportation of goods and persons by air or sea.

Environmental law is a foundation for environmental sustainability.

Violations of environmental law undermine the achievement of all dimensions of sustainable development and environmental sustainability.

What is International Environmental Law (IEL)?

Customary International Law

A set of unwritten laws arising from widespread custom and usage among nations.
 Ex: warning a neighbouring nation about a major accident that could affect its environment.

International Treaties

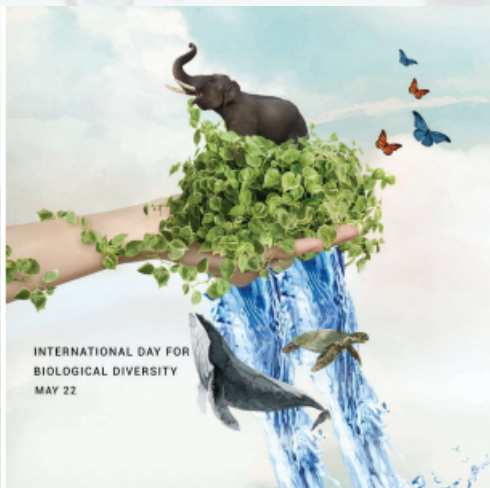
The most recent and effective source of international environmental law.
 The sovereignty of nations persists as the primary obstacle to all forms of international law.

Judicial Decisions of International Courts

Decisions by international courts or arbitrators shape international environmental law.



WORLD ENVIRONMENT DAY
JUNE 5



INTERNATIONAL DAY FOR BIOLOGICAL DIVERSITY
MAY 22

What are my environmental rights?

- The right of each individual to be aware of possible environmental threats and risks.
- The right of individuals and organizations to receive, print, and spread information concerning the environment.



- Local institutions have a responsibility to ensure security in their citizens and have a duty to find a remedy for environmental damage.
- Case studies: Rio Declaration • The Universal Declaration of Human Rights • The International Commission on Civil and Political Rights

Environmental Courts and Tribunals (ECTs)

DID YOU KNOW THAT?

The role of ECTs in the Middle East is to cater to the civil society and protect human rights and implement Environmental Law Principles that would help in dealing with climate change issues?

ECTs usually reflect the social, economic, and environmental needs of each country and work towards satisfying these needs?

Environmental laws explicitly state regulations and customary laws that tackle the effects of human activity on impact of natural resources on the environment?

Implementing environmental laws can be done through multiple punishments like fines, community work, and in some cases jail time?

ECTs alone cannot ensure completely effective environmental regulations?

Individuals should also be aware of the risks and how to prevent committing any environmental laws violations?

Middle Eastern governments should raise awareness to the public and make them accountable of their actions in case of any violations?

Having a specific body of international environmental organization overlooking national environmental courts is essential to ensure that countries are working towards a more sustainable environment?

For environmental courts to be effective, their work and decisions should be locally binding and final?

NOW

YOU

KNOW!





INTERNATIONAL DAY OF PLANT HEALTH
MAY 12

European Union (EU) environmental policy

EU environment policy is based on Articles 11 and 191 to 193 of the Treaty on the Functioning of the European Union (TFEU).

Under Article 191, combating climate change is an explicit objective of EU environmental policy.

Sustainable development is an overarching objective for the EU, which is committed to a 'high level of protection and improvement of the quality of the environment' (Article 3 of the TFEU).

General Principles

The principle of precaution, prevention and rectifying pollution at source.

- The precautionary principle is a risk management tool that may be invoked when there is scientific uncertainty about a suspected risk to human health or to the environment emanating from a certain action or policy.

The "Polluter pays" principle.

- The 'polluter pays' principle is implemented by the Environmental Liability Directive, which aims to prevent or otherwise remedy environmental damage to protected species or to natural habitats, water and soil.

3 GOOD HEALTH AND WELL-BEING		<i>Let's make peace</i>
6 CLEAN WATER AND SANITATION		<i>with our environment</i>
7 AFFORDABLE AND CLEAN ENERGY		<i>through the rule of law!</i>
11 SUSTAINABLE CITIES AND COMMUNITIES		Only by working together can we achieve a sustainable future with improved health for all.
17 PARTNERSHIPS FOR THE GOALS		
13 CLIMATE ACTION		
14 LIFE BELOW WATER		
15 LIFE ON LAND		
16 PEACE AND JUSTICE STRONG INSTITUTIONS		



WORLD DAY TO COMBAT DESERTIFICATION AND DROUGHT
JUNE 17

WORLD BEE DAY
MAY 20

INTERNATIONAL DAY FOR THE CONSERVATION OF THE MANDROVE ECOSYSTEM
JULY 26

STOP FOOD WASTE

INTERNATIONAL DAY OF AWARENESS OF FOOD LOSS AND WASTE
SEPTEMBER 29

WORLD BICYCLE DAY
JUNE 3



20
22



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