

# Conserving biodiversity as a priority

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Honeybees are disappearing. Contributing factors include the pesticides of industrial agriculture and urban developments encroaching on habitats. Wildflowers and areas of plant abundance are in decline. The bees are losing their food source.

And so, too, could we. Aside from providing honey, bees are essential pollinators of crops ranging from apples and cranberries to almonds and broccoli—a crucial link in the biodiversity of nature that makes life on Earth possible.

"Nature, and the diverse forms it takes, is all around us," says Michelle Lim, an Associate Professor of Law at Singapore Management University (SMU).

"It not only underpins natural functions that contribute to clean air, fresh water, natural disaster prevention, nutrition and food security. The wonder and beauty of the natural world is also key to all that makes life worth living."

Biodiversity law is a research focus for Professor Lim. She notes that [human activity](#) is driving the extinction of species at an alarming rate and that fundamental and urgent changes are required within and beyond international law so that humans and nature may thrive in the present and into the future.

Biodiversity conservation has been identified as one of society's most important planetary challenges as biodiversity loss poses a greater risk to humanity than [climate change](#), though the two are often interlinked—such as with heat waves raising ocean temperatures and acidity levels that have wiped out billions of sea creatures.

## **Global solution**

The principal legal instrument for addressing the strain humans are placing on nature is the UN's Convention on Biological Diversity (CBD) which will finalize the targets of its action framework for the decade to 2030 in Montreal in December.

The targets for 2020 that the CBD set in Aichi, Japan in 2010 have not been met. Can the CBD learn from its past and move from an instrument of aspiration to one of action?

"Without clear, binding obligations on states, as in the current draft [for 2030], the ultimate reason for the Aichi targets not being met will likely be the same reason that the post-2020 targets are not met in 2030," Professor Lim says.

The CBD emerged in the late 1980s in recognition of the need to develop a holistic global solution to [biodiversity conservation](#) and sustainable use. Negotiations of the agreement concluded at the 'Earth Summit' in Rio de Janeiro, Brazil in 1992, at the same time as the United Nations Framework Convention on Climate Change and the United Nations Convention to Combat Desertification. At a conceptual level, the CBD moved international law beyond previous conventions that focused on species-specific conservation or particular habitats.

With 196 parties and 168 signatories, the CBD boasts almost universal membership. But despite signing the treaty in 1993, the US has failed to ratify the convention and is a notable non-party.

The voluntary nature of adherence to the CBD's targets, alongside the numerous caveats in the Convention text, has given rise to a view that the CBD was never meant to be particularly effective. For example, at the CBD's inception, then British prime minister John Major described the convention as an "attractive, easily implemented green gesture".

"Maybe 'never meant to be effective' is a bit harsh," says Professor Lim, "but there is a clear sense of wanting to 'have one's cake and eat it too'. In other words, to agree to something that could see some gains for nature, or at least create the impression of doing something, without making any changes to the status quo."

## **Lack of teeth**

Despite proving "an excellent framework within which meaningful international discussions around biodiversity can occur between developed and developing nations", the CBD appears hamstrung by its structure and procedures—non-binding targets; voluntary self-reporting; encouraging states to do their best without any details as to specific actions; and the impediment of the 'sovereign right' of states to 'exploit their own resources pursuant to their own environmental polices'.

"That's an excellent summary of what is wrong with the CBD," says Professor Lim.

"Therefore, on the surface, what needs to change is essentially turning each of those on their head—that is, meaningful binding commitments; transparency and accountability mechanisms (such as a 'name and shame' mechanism similar to the Paris Agreement on climate); explicit outcomes and meaningful indicators in the post-2020 framework; and real commitment to the CBD's 2050 Vision of 'living in harmony with nature'.

"There is some level of political will to address this that has come from statements from individual countries. Bolivia, for example, has called for the embrace of more eco-centric world views. Singapore leads the way when thinking about what this means particularly in an urban context.

"But more deeply, there still is a lack of discussion, let alone political will, around the restructuring required to move beyond current neoliberal capitalist systems of extraction and exploitation," Professor Lim says.

## **Transformational change**

"That there exists a global instrument and an associated institutional structure for the majority of nations to come together under is no mean feat," Professor Lim says of the CBD.

"But a legal system which seeks to regulate international issues with a focus solely on the nation state is clearly outdated."

A case in point is Indigenous peoples and local communities which can only have observer status because they are not nation states.

"It is critical that we are deliberate when conceptualizing the involvement of Indigenous peoples and local communities," Professor Lim says.

"The emphasis needs to be on [their role] as custodians of nature—on the protection of Indigenous knowledges, not on accessing it. It is also important to highlight the key contributions Indigenous peoples and [local communities](#) have made to the continued stewardship of biodiversity on a global scale."

"I am hopeful that transformation can and will occur but I don't see it happening as the result of the CBD alone or that binding targets will arise from [the negotiations] in Montreal," Professor Lim says.

"Transformative change is not a task for any single international law instrument or even [international law](#) as a whole. It can happen but I really don't think state-based negotiations will be the key engine for change. More engagement and mobilization of a range of non-state actors can and needs to happen to a much greater extent.

"This is an important area where lessons can be drawn from the participation and involvement of business, NGOs, Indigenous peoples and communities at the Paris Conference—the wider forum that

occurred around the Paris Agreement under the UN Framework Convention on Climate Change.

"That said, I see real change and momentum coming from social movements," Professor Lim says.

Provided by Singapore Management University

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