

17th IUCN Academy of Environmental law Colloquium, Kuala Lumpur, Malaysia, 4-10 August 2019

A PROPOSAL FOR A NEW INTERNATIONAL SOILS INSTRUMENT TO SUPPORT
SDG 15.3 (ACHIEVING LAND DEGRADATION NEUTRALITY BY 2030)
MODELLED ON THE PARIS AGREEMENT ON CLIMATE CHANGE

Adjunct Professor Rob Fowler



University of
South Australia

School of
Law

OVERVIEW

- Review of recent international reports on soils and land degradation
- SDG 15.3: the land degradation neutrality (LDN) target
- Current international governance of soils
- A proposal: to adapt the Paris Agreement model to the protection of soils
 - Key elements of the Paris Agreement
 - Adapting these elements to the soils context



Recent international reports on soils/land degradation

- **FAO Status of the World's Soil Resources (2016)**
 - 33% of the world's land is moderately to highly degraded
- **IPBES Assessment Report on Land Degradation & Restoration(2018)**
 - Less than 25% Of the Earth's land system has escaped substantial impact from human activity;
 - Less than 10% will be un-impacted by 2050;
 - By 2050:
 - Land degradation will force 50-700 million people to migrate;
 - Crop yields will reduce by 10% on average, and up to 50% in some regions (central and south America, sub-Saharan Africa and Asia);
 - Land degradation is affecting the well-being of at least 3.2 billion people and is helping push the planet towards a sixth massive species extinction.



Recent international reports on soils/land degradation

Committee for the Review of the Implementation of the UN Convention to Combat Desertification (UNCCD) (January 2019 Report)

- Reviewed a recent global assessment of land degradation that found that 169 countries across the globe are affected by land degradation, desertification or drought;
- Almost one-fifth of all land within countries who are parties to the UNCCD are affected by land degradation
- SUMMARY:
 - “Worsening land degradation caused by human activities is undermining the well-being of two fifths of humanity, driving species extinctions and intensifying climate change. It is also a major contribution to mass migration and increased conflict...”

Sir Robert Watson, Chair of the IPBES, 2018.



University of
South Australia

School of
Law

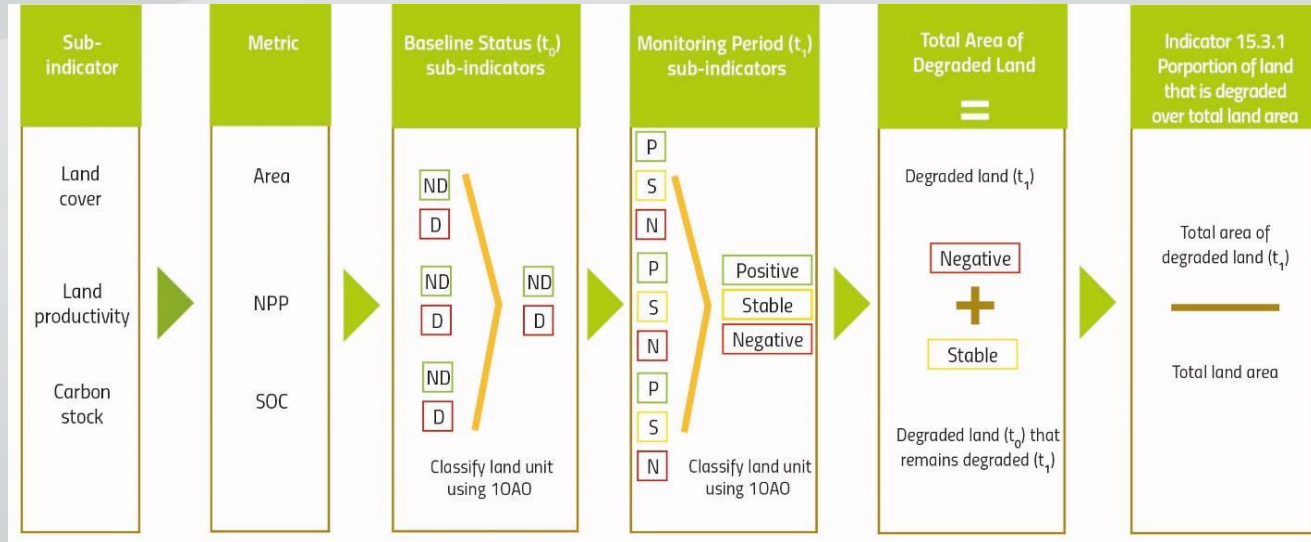
SDG 15.3: the land degradation neutrality (LDN) target

- SDG 15 promotes “Life on Land” and SDG target 15.3 states the following target:
‘By 2030, combat desertification, restore degraded land and soil, including land affected by desertification, drought and floods, and strive to achieve a land degradation - neutral world.’
- *Land degradation* has been defined by the parties to the UNCCD as “the reduction or loss of the biological or economic productivity and complexity of rain fed cropland, irrigated cropland, or range, pasture, forest and woodlands resulting from a combination of pressures, including land use and management practices”.
- *Land Degradation Neutrality* (LDN) has been defined as a state whereby the amount and quality of land resources necessary to support ecosystem functions and services and enhance food security remain stable or increase within specified temporal and spatial scales and ecosystems (decision 3/UNCCD COP12).
- *Indicator 15.3.1*: Proportion of land that is degraded over total land area .



SDG 15.3: the land degradation neutrality (LDN) target

Figure 2: Steps to derive the indicator from the sub-indicators, where ND is not degraded and D is degraded.



Current international governance of soils

- No international instrument specifically addresses soil conservation or sustainable land management (cf., forests)
- UN Convention on Combatting Desertification (UNCCCD) is widely regarded as a failure:
 - Applies only to 40% of Earth's land surface;
 - Definition of land degradation so broad that it could include virtually any change of land-use; core legal obligation to prepare National Action plans (NAPs) has had little effect in practice (only 20% of Parties have aligned their NAPs with the 10 year Strategic Plan adopted under the UNCCD);
 - Other obligations are general and ineffective;
 - does not provide for a global approach on LDN (although has been designated as principal vehicle for doing so).
- UN Convention on Biological Diversity (UNCBD) presently does not focus on soils (this would require integration of sustainable soil use into next Strategic Plan for Biodiversity (2021-2030) and the development of an Aichi soil biodiversity target for beyond 2020).
- Paris Agreement on Climate Change has only indirect influence through LULUCF (land-use, land-use change and forestry) reporting rules (adopted in place of the 1995 UNFCCC framework)
- From an institutional perspective, neither FAO nor UNEP have taken a lead role in promoting soil conservation or LDN



A proposal: to adapt the Paris Agreement model to the protection of soils

Key elements of the Paris Agreement

- Is an historically innovative use of international law that involves a less regulatory and more information-focused approach;
- Is a new, hybrid form of global instrument that embodies both ‘top down’ global goals and ‘bottom up’ national commitments;
- The global goals are political rather than legal in nature;
- But a requirement to make voluntary emissions reduction commitments in the form of Nationally Determined Contributions (NDCs) is complemented by reporting and review requirements that are mandatory under international law;
- Principle means of enforcement is “naming and shaming” of parties whose commitments are considered inadequate or who default on their reporting obligations (which has also been criticised as a weakness of the Agreement)



A proposal: to adapt the Paris Agreement model to the protection of soils

Adapting these elements to the soils context

- With respect to establishing a political goal, the LDN target in SDG 15.3 provides a ready-made and widely-accepted point of reference;
- Bottom-up obligations could be imposed on States to identify national LDN targets and to report regularly on their efforts to accomplish these targets;
- Current efforts through the UNCCD and FAO to elaborate SDG 15.3 could be reflected in a “rulebook” re measurement and evaluation (cf., Paris Agreement rulebook on carbon emissions);
- Negotiations for a Paris Agreement style of instrument re LDN/soils could be initiated through the Global Soils Partnership (GSP), established in 2012 by FAO to “meet the need for a multilateral agreement focusing specifically on soil challenges, and to advocate for sustainable soil and land management at the global level.”
- Alternatively, IUCN could build on previous efforts in this context, with support from the soil science community.



Conclusion

- There has been a general lack of appetite for a global instrument on the protection of soils, due largely to sovereignty concerns on the part of a small number of countries who are large agricultural exporters (USA, Canada, Argentina etc.) ;
- Increasing awareness globally of the impacts of land degradation, including on biodiversity, suggests there could be fresh interest in treating this as a matter of common international concern;
- Instead of a traditional regulatory approach, one based on transparency and accountability could be developed by using the Paris Agreement on climate change as a model;
- The key elements of such an instrument would be a political commitment to the LDN target, backed up by national voluntary commitments to contribute to this goal, and a system of reporting and regular review of implementation.

