

# Our Commons Future Is Already Here

## A stirring call to unite the environmental and global justice movement from Maude Barlow

*Maude Barlow gave this stirring plenary speech, full of hope even in the face of ecological disasters, to the Environmental Grantmakers Association annual retreat in Pacific Grove, California on October 12, 2010. Barlow, a former UN Senior Water Advisor, is National Chairperson of the Council of Canadians and founder of the Blue Planet Project.*

**“Every now and then in history, the human race takes a collective step forward in its evolution. Such a time is upon us now.”**

We all know that the earth and all upon it face a growing crisis. Global climate change is rapidly advancing, melting glaciers, eroding soil, causing freak and increasingly wild storms, and displacing untold millions from rural communities to live in desperate poverty in peri-urban slums. Almost every human victim lives in the global South, in communities not responsible for greenhouse gas emissions. The atmosphere has already warmed up almost a full degree in the last several decades and a new Canadian study reports that we may be on course to add another 6 degrees Celsius (10.8 degrees Fahrenheit) by 2100.

Half the tropical forests in the world – the lungs of our ecosystems – are gone; by 2030, at the current rate of harvest, only 10% will be left standing. Ninety percent of the big fish in the sea are gone, victim to wanton predatory fishing practices. Says a prominent scientist studying their demise “there is no blue frontier left.” Half the world’s wetlands – the kidneys of our ecosystems – were destroyed in the 20th century. Species extinction is taking place at a rate one thousand times greater than before humans existed. According to a Smithsonian scientist, we are headed toward a “biodiversity deficit” in which species and ecosystems will be destroyed at a rate faster than Nature can create new ones.

We are polluting our lakes, rivers and streams to death. Every day, 2 million tons of sewage and industrial and agricultural waste are discharged into the world’s water, the equivalent of the weight of the entire human population of 6.8 billion people. The amount of wastewater produced annually is about six times more water than exists in all the rivers of the world. A comprehensive new global study recently reported that 80% of the world’s rivers are now in peril, affecting 5 billion people on the planet. We are also mining our groundwater far faster than nature can replenish it, sucking it up to grow water-guzzling chemical-fed crops in deserts or to water thirsty cities that dump an astounding 200 trillion gallons of land-based water as waste in the oceans every year. The global mining industry sucks up another 200 trillion gallons, which it leaves behind as poison. Fully one third of global water withdrawals are now used to produce biofuels, enough water to feed the world. A recent global survey of groundwater found that the rate of depletion more than doubled in the last half century. If water was drained as rapidly from the Great Lakes, they would be bone dry in 80 years.

The global water crisis is the greatest ecological and human threat humanity has ever faced. As vast areas of the planet are becoming desert as we suck the remaining waters out of living ecosystems and drain remaining aquifers in India, China, Australia, most of Africa, all of the Middle East, Mexico, Southern Europe, US Southwest and other places. Dirty water is the biggest killer of children; every day more children die of water borne disease than HIV/AIDS, malaria and war together. In the global South, dirty water kills a child every three and a half seconds. And it is getting worse, fast. By 2030, global demand for water will exceed supply by 40%— an astounding figure foretelling of terrible suffering.

Knowing there will not be enough food and water for all in the near future, wealthy countries and global investment, pension and hedge funds are buying up land and water, fields and forests in the global South, creating a new wave of invasive colonialism that will have huge geo-political ramifications. Rich investors have already bought up an amount of land double the size of the United Kingdom in Africa alone.

### **We Simply Cannot Continue on the Present Path**

I do not think it possible to exaggerate the threat to our earth and every living thing upon it. Quite simply we cannot continue on the path that brought us here. Einstein said that problems cannot be solved by the same level of thinking that created them. While mouthing platitudes about caring for the earth, most of our governments are deepening the crisis with new plans for expanded resource exploitation, unregulated free trade deals, more invasive investment, the privatization of absolutely everything and unlimited growth. This model of development is literally killing the planet.

Unlimited growth assumes unlimited resources, and this is the genesis of the crisis. Quite simply, to feed the increasing demands of our consumer based system, humans have seen nature as a great resource for our personal convenience and profit, not as a living ecosystem from which all life springs. So we have built our economic and development policies based on a human-centric model and assumed either that nature would never fail to provide or that, where it does fail, technology will save the day.

### **Two Problems that Hinder the Environmental Movement**

From the perspective of the environmental movement, I see two problems that hinder us in our work to stop this carnage. The first is that, with notable exceptions, most environmental groups either have bought into the dominant model of development or feel incapable of changing it. The main form of environmental protection in industrialized countries is based on the regulatory system, legalizing the discharge of large amounts of toxics into the environment.

Environmentalists work to minimize the damage from these systems, essentially fighting for inadequate laws based on curbing the worst practices, but leaving intact the system of economic globalization at the heart of the problem. Trapped inside this paradigm, many environmentalists essentially prop up a deeply flawed system, not imagining they are capable of creating another.

Hence, the support of false solutions such as carbon markets, which, in effect, privatize the atmosphere by creating a new form of property rights over natural resources. Carbon markets are

predicated less on reducing emissions than on the desire to make carbon cuts as cheap as possible for large corporations.

Another false solution is the move to turn water into private property, which can then be hoarded, bought and sold on the open market. The latest proposals are for a water pollution market, similar to carbon markets, where companies and countries will buy and sell the right to pollute water. With this kind of privatization comes a loss of public oversight to manage and protect watersheds. Commodifying water renders an earth-centred vision for watersheds and ecosystems unattainable.

Then there is PES, or Payment for Ecological Services, which puts a price tag on ecological goods – clean air, water, soil etc, – and the services such as water purification, crop pollination and carbon sequestration that sustain them. A market model of PES is an agreement between the “holder” and the “consumer” of an ecosystem service, turning that service into an environmental property right. Clearly this system privatizes nature, be it a wetland, lake, forest plot or mountain, and sets the stage for private accumulation of nature by those wealthy enough to be able to buy, hoard sell and trade it. Already, northern hemisphere governments and private corporations are studying public/private/partnerships to set up lucrative PES projects in the global South. Says Friends of the Earth International, “Governments need to acknowledge that market-based mechanisms and the commodification of biodiversity have failed both biodiversity conservation and poverty alleviation.”

The second problem with our movement is one of silos. For too long environmentalists have toiled in isolation from those communities and groups working for human and social justice and for fundamental change to the system. On one hand are the scientists, scholars, and environmentalists warning of a looming ecological crisis and monitoring the decline of the world’s freshwater stocks, energy sources and biodiversity. On the other are the development experts, anti-poverty advocates, and NGOs working to address the inequitable access to food, water and health care and campaigning for these services, particularly in the global South. The assumption is that these are two different sets of problems, one needing a scientific and ecological solution, the other needing a financial solution based on pulling money from wealthy countries, institutions and organizations to find new resources for the poor.

The clearest example I have is in the area I know best, the freshwater crisis. It is finally becoming clear to even the most intransigent silo separatists that the ecological and human water crises are intricately linked, and that to deal effectively with either means dealing with both. The notion that inequitable access can be dealt with by finding more money to pump more groundwater is based on a misunderstanding that assumes unlimited supply, when in fact humans everywhere are overpumping groundwater supplies. Similarly, the hope that communities will cooperate in the restoration of their water systems when they are desperately poor and have no way of conserving or cleaning the limited sources they use is a cruel fantasy. The ecological health of the planet is intricately tied to the need for a just system of water distribution.

The global water justice movement (of which I have the honour of being deeply involved) is, I believe, successfully incorporating concerns about the growing ecological water crisis with the promotion of just economic, food and trade policies to ensure water for all. We strongly believe

that fighting for equitable water in a world running out means taking better care of the water we have, not just finding supposedly endless new sources. Through countless gatherings where we took the time to really hear one another – especially grassroots groups and tribal peoples closest to the struggle – we developed a set of guiding principles and a vision for an alternative future that are universally accepted in our movement and have served us well in times of stress. We are also deeply critical of the trade and development policies of the World Trade Organization, the World Bank and the World Water Council (whom I call the “Lords of water”), and we openly challenge their model and authority.

Similarly, a fresh and exciting new movement exploded onto the scene in Copenhagen and set all the traditional players on their heads. The climate justice movement whose motto is Change the System, Not the Climate, arrived to challenge not only the stalemate of the government negotiators but the stale state of too cosy alliances between major environmental groups, international institutions and big business – the traditional “players” on the climate scene. Those climate justice warriors went on to gather at another meeting in Cochabamba, Bolivia, producing a powerful alternative declaration to the weak statement that came out of Copenhagen. The new document forged in Bolivia put the world on notice that business as usual is not on the climate agenda.

### **How the Commons Fits In**

I deeply believe it is time for us to extend these powerful new movements, which fuse the analysis and hard work of the environmental community with the vision and commitment of the justice community, into a whole new form of governance that not only challenges the current model of unlimited growth and economic globalization but promotes an alternative that will allow us and the Earth to survive. Quite simply, human-centred governance systems are not working and we need new economic, development, and environmental policies as well as new laws that articulate an entirely different point of view from that which underpins most governance systems today. At the centre of this new paradigm is the need to protect natural ecosystems and to ensure the equitable and just sharing of their bounty. It also means the recovery of an old concept called the Commons.

The Commons is based on the notion that just by being members of the human family, we all have rights to certain common heritages, be they the atmosphere and oceans, freshwater and genetic diversity, or culture, language and wisdom. In most traditional societies, it was assumed that what belonged to one belonged to all. Many indigenous societies to this day cannot conceive of denying a person or a family basic access to food, air, land, water and livelihood. Many modern societies extended the same concept of universal access to the notion of a social Commons, creating education, health care and social security for all members of the community. Since adopting the Universal Declaration of Human Rights in 1948, governments are obliged to protect the human rights, cultural diversity and food security of their citizens.

A central characteristic of the Commons is the need for careful collaborative management of shared resources by those who use them and allocation of access based on a set of priorities. A Commons is not a free-for-all. We are not talking about a return to the notion that nature’s capacity to sustain our ways is unlimited and anyone can use whatever they want, however they

want, whenever they want. It is rooted rather in a sober and realistic assessment of the true damage that has already been unleashed on the world's biological heritage as well as the knowledge that our ecosystems must be managed and shared in a way that protects them now and for all time.

Also to be recovered and expanded is the notion of the Public Trust Doctrine, a longstanding legal principle which holds that certain natural resources, particularly air, water and the oceans, are central to our very existence and therefore must be protected for the common good and not allowed to be appropriated for private gain. Under the Public Trust Doctrine, governments exercise their fiduciary responsibilities to sustain the essence of these resources for the long-term use and enjoyment of the entire populace, not just the privileged who can buy inequitable access.

The Public Trust Doctrine was first codified in 529 A.D. by Emperor Justinian who declared: "By the laws of nature, these things are common to all mankind: the air, running water, the sea and consequently the shores of the sea." U.S. courts have referred to the Public Trust Doctrine as a "high, solemn and perpetual duty" and held that the states hold title to the lands under navigable waters "in trust for the people of the State." Recently, Vermont used the Public Trust Doctrine to protect its groundwater from rampant exploitation, declaring that no one owns this resource but rather, it belongs to the people of Vermont and future generations. The new law also places a priority for this water in times of shortages: water for daily human use, sustainable food production and ecosystem protection takes precedence over water for industrial and commercial use.

An exciting new network of Canadian, American and First Nations communities around the Great Lakes is determined to have these lakes named a Commons, a public trust and a protected bioregion.

Equitable access to natural resources is another key character of the Commons. These resources are not there for the taking by private interests who can then deny them to anyone without means. The human right to land, food, water, health care and biodiversity are being codified as we speak from nation-state constitutions to the United Nations. Ellen Dorsey and colleagues have recently called for a human rights approach to development, where the most vulnerable and marginalized communities take priority in law and practice. They suggest renaming the United Nation's Millennium Development Goals the Millennium Development Rights and putting the voices of the poor at the centre.

This would require the meaningful involvement of those affected communities, especially Indigenous groups, in designing and implementing development strategies. Community-based governance is another basic tenet of the Commons.

### **Inspiring Successes Around the Globe**

Another crucial tenet of the new paradigm is the need to put the natural world back into the centre of our existence. If we listen, nature will teach us how to live. Again, using the issue I know best, we know exactly what to do to create a secure water future: protection and restoration of watersheds; conservation; source protection; rainwater and storm water harvesting; local,

sustainable food production; and meaningful laws to halt pollution. Martin Luther King Jr. said legislation may not change the heart but it will restrain the heartless.

Life and livelihoods have been returned to communities in Rajasthan, India, through a system of rainwater harvesting that has made desertified land bloom and rivers run again thanks to the collective action of villagers. The city of Salisbury South Australia, has become an international wonder for greening desertified land in the wake of historic low flows of the Murray River. It captures every drop of rain that falls from the sky and collects storm and wastewater and funnels it all through a series of wetlands, which clean it, to underground natural aquifers, which store it, until it is needed.

In a “debt for nature” swap, Canada, the U.S. and The Netherlands cancelled the debt owed to them by Colombia in exchange for the money being used for watershed restoration. The most exciting project is the restoration of 16 large wetland areas of the Bogotá River, which is badly contaminated, to pristine condition. Eventually the plan is to clean up the entire river. True to principles of the Commons, the indigenous peoples living on the sites were not removed, but rather, have become caretakers of these protected and sacred places.

The natural world also needs its own legal framework, what South African environmental lawyer Cormac Cullinen calls “wild law.” The quest is a body of law that recognizes the inherent rights of the environment, other species and water itself outside of their usefulness to humans. A wild law is a law to regulate human behaviour in order to protect the integrity of the earth and all species on it. It requires a change in the human relationship with the natural world from one of exploitation to one of democracy with other beings. If we are members of the earth’s community, then our rights must be balanced against those of plants, animals, rivers and ecosystems. In a world governed by wild law, the destructive, human-centred exploitation of the natural world would be unlawful. Humans would be prohibited from deliberately destroying functioning ecosystems or driving other species to extinction.

This kind of legal framework is already being established. The Indian Supreme Court has ruled that protection of natural lakes and ponds is akin to honouring the right to life – the most fundamental right of all according to the Court. Wild law was the inspiration behind an ordinance in Tamaqua Borough, Pennsylvania that recognized natural ecosystems and natural communities within the borough as “legal persons” for the purposes of stopping the dumping of sewage sludge on wild land. It has been used throughout New England in a series of local ordinances to prevent bottled water companies from setting up shop in the area. Residents of Mount Shasta California have put a wild law ordinance on the November 2010 ballot to prevent cloud seeding and bulk water extraction within city limits.

In 2008, Ecuador’s citizens voted two thirds in support of a new constitution, which says, “Natural communities and ecosystems possess the unalienable right to exist, flourish and evolve within Ecuador. Those rights shall be self-executing, and it shall be the duty and right of all Ecuadorian governments, communities, and individuals to enforce those rights.” Bolivia has recently amended its constitution to enshrine the philosophy of “living well” as a means of expressing concern with the current model of development and signifying affinity with nature and the need for humans to recognize inherent rights of the earth and other living beings. The

government of Argentina recently moved to protect its glaciers by banning mining and oil drilling in ice zones. The law sets standards for protecting glaciers and surrounding ecosystems and creates penalties just for harming the country's fresh water heritage.

The most far-reaching proposal for the protection of nature itself is the Universal Declaration on the Rights of Mother Earth that was drafted at the April 2010 World People's Conference on Climate Change in Cochabamba, Bolivia and endorsed by the 35,000 participants there. We are writing a book setting out our case for this Declaration to the United Nations and the world. The intent is for it to become a companion document to the 1948 Universal Declaration of Human Rights. Every now and then in history, the human race takes a collective step forward in its evolution. Such a time is upon us now as we begin to understand the urgent need to protect the earth and its ecosystems from which all life comes. The Universal Declaration on the Rights of Mother Earth must become a history-altering covenant toward a just and sustainable future for all.

### **What Can We Do Right Now?**

What might this mean for funders and other who share these values? Well, let me be clear: the hard work of those fighting environmental destruction and injustice must continue. I am not suggesting for one moment that his work is not important or that the funding for this work is not needed. I do think however, that there are ways to move the agenda I have outlined here forward if we put our minds to it.

Anything that helps bridge the solitudes and silos is pure gold. Bringing together environmentalists and justice activists to understand one another's work and perspective is crucial. Both sides have to dream into being – together – the world they know is possible and not settle for small improvements to the one we have. This means working for a whole different economic, trade and development model even while fighting the abuses existing in the current one. Given a choice between funding an environmental organization that basically supports the status quo with minor changes and one that promotes a justice agenda as well, I would argue for the latter.

Support that increases capacity at the base is also very important, as is funding that connects domestic to international struggle, always related even when not apparent. Funding for those projects and groups fighting to abolish or fundamentally change global trade and banking institutions that maintain corporate dominance and promote unlimited and unregulated growth is still essential.

### **How Clean Water Became a Human Right**

We all, as well, have to find ways to thank and protect those groups and governments going out on a limb to promote an agenda for true change. A very good example is President Evo Morales of Bolivia, who brought the climate justice movement together in Cochabamba last April and is leading the campaign at the UN to promote the Rights of Mother Earth.

It was this small, poor, largely indigenous landlocked country, and its former coca-farmer president, that introduced a resolution to recognize the human right to water and sanitation this past June to the UN General Assembly, taking the whole UN community by surprise. The Bolivian UN Ambassador, Pablo Solon, decided he was fed up with the “commissions” and “further studies” and “expert consultations” that have managed to put off the question of the right to water for at least a decade at the UN and that it was time to put an “up or down” question to every country: do you or do you not support the human right to drinking water and sanitation?

A mad scramble ensued as a group of Anglo-Western countries, all promoting to some extent the notion of water as a private commodity, tried to derail the process and put off the vote. The U.S., Canada, the UK, Australia and New Zealand even cooked up a “consensus” resolution that was so bland everyone would likely have handily voted for it at an earlier date. But sitting beside the real thing, it looked like what it was – an attempt, yet again, to put off any meaningful commitment at the UN to the billions suffering from lack of clean water. When that didn’t work, they toiled behind the scenes to weaken the wording of the Bolivian resolution but to no avail. On July 28, 2010, the UN General Assembly overwhelmingly voted to adopt a resolution recognizing the human right to water and sanitation. One hundred and twenty two countries voted for the resolution; 41 abstained; not one had the courage to vote against.

I share this story with you not only because my team and I were deeply involved in the lead up to this historic vote and there for it the day it was presented, but because it was the culmination of work done by a movement operating on the principles I have outlined above.

We took the time to establish the common principles that water is a Commons that belongs to the earth, all species, and the future, and is a fundamental human right not to be appropriated for profit. We advocate for the Public Trust Doctrine in law at every level of government. We set out to build a movement that listens first and most to the poorest among us, especially indigenous and tribal voices. We work with communities and groups in other movements, especially those working on climate justice and trade justice. We understand the need for careful collaborative cooperation to restore the functioning of watersheds and we have come to revere the water that gives life to all things upon the Earth. While we clearly have much left to do, these water warriors inspire me and give me hope. They get me out of bed every morning to fight another day.

I believe I am in a room full of stewards and want, then to leave you with these words from *Lord of the Rings*. This is Gandalf speaking the night before he faces a terrible force that threatens all living beings. His words are for you.

—“The rule of no realm is mine, but all worthy things that are in peril, as the world now stand, those are my care. And for my part, I shall not wholly fail in my task if anything passes through this night that can still grow fair, or bear fruit, and flower again in the days to come.

For I too am a steward, did you not know?” — J.R.R. Tolkien