

International Environmental Law Aspects in Relation to the Procedure Actor

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Abstract

This article examines the academic background of an international environmental law, its inside and the dissimilar customs to accomplish completion of Environmental protection is first ascertained as a universal concern which warrants consideration within an international convention features of the right such as the emphasis on prevention and on the principle of solidarity deriving from the internationalization of environmental problems related to international level are then examined, some implementation mechanisms such as procedural rights developed at the same time in environmental instruments or the judicial appraisal of environmental protection in the context of enforceable convention are highlighted. International law, regulation and implementation of the treaty terms are at the national level research of foreign laws in the countries of focus for a research problem is necessary for thorough research and analysis of international environmental law and treaties and agreements. Environmental law is a body of rules and regulations law, which is a system of complex and interlocking statutes, common law, treaties, conventions, regulations and policies which seek to protect the natural environment which may be precious, impacted or endangered by human activities.

Keywords: International environmental law, conventions, agreement, problems, polices, rules and regulations, environmental problems, foreign laws, treaty, agreements

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INTRODUCTION

Our world faces a true planetary emergency. I know the phrase sounds shrill, and I know it's a challenge to the moral imagination [1].

Al Gore

International environmental law is an ever-changing, continually growing, and fascinating topic for international legal research based upon decisions and collaborations come about between nations across international restrictions and treaties or agreements are made to cooperate for environmental concerns, disputes inevitably emerge because of trade implications for the respective nations, safety concerns and cleanliness of environmental resources among shared borders, or problems with enforcement mechanisms for liability under agreements or treaty provisions relating to the environment. The hugeness of this area of international law includes the environmental sub-issues of population, biodiversity, global climate change, ozone

depletion, preserving the glacial regions, movement of toxic and hazardous substances, land or vessel-based pollution, dumping, conservation of marine living resources, trans-boundary air and water pollution, desertification, and nuclear damage, marine others research in international environmental law, basic understanding of international law and authority: for example, knowledge of treaty research and an awareness of the types of international agreements and their effect in nations of the world as result of reservations, understandings, or declarations of international environmental treaties or category of international environmental law is essential to research [2]. International law, regulation and implementation of the treaty terms are at the national level research of foreign laws in the countries of focus for a research problem is necessary for thorough research and analysis of international environmental law and treaties and agreements. Environmental law is a body of rules and regulations law, which is a system

of complex and interlocking statutes, common law, treaties, conventions, regulations and policies which seek to protect the natural environment which may be precious, impacted or endangered by human activities. Some environmental laws regulate the quantity and nature of impacts of human activities: for example, setting allowable levels of pollution or requiring permits for potentially harmful activities [3]. Environmental laws are the standards that governments establish to manage natural resources and environmental quality include such areas as air and water pollution, forests and wildlife, hazardous waste, agricultural practices, wetlands, and land-use planning, the National Environmental Policy Act, and the Endangered Species Act. The body of environmental law includes not only the text of these laws but also the regulations that implement and the judicial decisions that interpret this legislation standards set forth in environmental laws can apply to either private parties or the government. The Clean Air and Clean Water Acts, for example, are frequently used to regulate the polluting activities of private enterprises. These laws mandate certain pollution-reducing technology or limit the levels of pollution for power plants and factories [4]. The National Environmental Policy Act applies only to the actions of the government [5]. The National Environmental Policy Act requires that the federal government undertake a comprehensive environmental impact assessment before it can proceed with projects that are likely to harm the environment.

Overview of the International Environmental Law

Environmental concern is now firmly embedded in public life: in education, medicine and law; in journalism, literature and art [6].

Barry Commoner

International environmental law follows the same sources and categories of law as primary authority under Article 38 of the Statute of the I.C.J. Those include treaties, custom, general principles recognized among nations, decisions, and other secondary authority such

as the writings of prominent scholars in the field [7]. Therefore, a researcher should start with identifying the applicable treaties in force and analyzing those nations which are parties to the agreement. After determining all applicable treaties based on the facts of the research question, then the researcher can uncover national laws, which might accordingly follow the treaty. In the past, the timeline of treaties that are often identified as monumental in the formation of international environmental law include: the Stockholm Conference [8], UN Convention on the Law of the Sea, [9] World Conference on Environment and Development[10], UN Conference on Environment and Development [11], and the World Summit on Sustainable Development [12] (2002). Treaties based on the type of environmental concern or prevention of certain types of deterioration or liabilities for pollution are some of the most commonly-used abbreviations for treaty research in international environmental law.

- Agenda 21 – Programme of Action for Sustainable Development (Agenda 21) [13].
- Aarhus Convention – Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters [14].
- Basel Convention – Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal [15].
- Basel Ban Amendment - Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes [16].
- Biodiversity Convention – Convention on Biological Diversity [17].
- Bunkers Convention – International Convention on Civil Liability for Bunker Oil Pollution Damage [18].
- Cartagena Protocol – Cartagena Protocol on Biosafety to the Convention on Biological Diversity [19].
- Convention on Biological Diversity[20]
- Convention on the Conservation of Antarctic Marine Living Resources [21].
- Convention for the Conservation of Southern Bluefin Tuna [22].

- Convention on the International Trade in Endangered Species of Wild Fauna and Flora [23]
- Convention on Civil Liability for Oil Pollution Damage [24].
- Climate Change Convention – United Nations Framework Convention on Climate Change [25].
- Kyoto Protocol – Kyoto Protocol to the United Nations Framework Convention on Climate Change [26].
- Geneva Convention on Long-Range Trans boundary Air Pollution [27].
- MARPOL – International Convention for the Prevention of Pollution from Ships [28].
- Montreal Protocol – Montreal Protocol on Substances that Deplete the Ozone Layer [29].
- NAAEC – North American Agreement on Environmental Cooperation [30]
- OLDEPESCA – Agreement Instituting the Latin American Organization for Fisheries Development [31].
- OSPAR Convention – Convention for the Protection of the Marine Environment of the North-East Atlantic [32]
- Paris Convention – Paris Convention on Third Party Liability in the Field of Nuclear Energy [33].
- Ramsar – Convention on Wetlands of International Importance especially as Waterfowl Habitat [34]
- Rio Declaration – Rio Declaration on Environment and Development [35].
- Stockholm Convention – Stockholm Convention on Persistent Organic Pollutants [36]
- United Nations Convention to Combat Desertification [37]
- United Nations Convention on the Law of the Sea [38]
- United Nations Environment Programme [39].
- United Nations Framework Convention on Climate Change [40]
- Vienna Convention – Convention for the Protection of the Ozone Layer [41].
- Convention on Nuclear Safety (1994)
- Convention on Third Party Liability in the Field of Nuclear Energy 1960
- Agreement for the Establishment of the Indo-Pacific Fisheries Council (1948) and Amendments (1961)
- Agreement Instituting the Latin American Organization for Fisheries Development (1982)
- Convention for the Conservation of Salmon in the North Atlantic (1982)
- Convention for the Conservation of Southern Bluefin Tuna (1993)
- UNECE Water Convention (1992) and Amendment (2003)
- UN Convention on the Law of the Non-navigational Uses of International Watercourses (1997)
- Stockholm Convention on Persistent Organic Pollutants (2001)
- Cartagena Protocol on Bio safety (2000)

International Environmental Law

Because of the many possible sub-topics available for international environmental law, it is helpful to have a table of categories and correlating agreements for research based on the eight sub-topics of hazardous waste, nuclear waste, ocean and marine sources, ozone and protection of the atmosphere, pollution, protection of species and wildlife, sustainable development, and trade and the environment.

Principles of Environmental law

The main concern under this agreement is Ecologically Sustainable Development. Ecologically Sustainable Development means using, conserving and improving natural resources so that the ecological processes on which life depends can continue in the future. Ecologically Sustainable Development has four main principles:

- the precautionary principle
- the principle of intergenerational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms such as the polluter pays principle
- public participation in decision making
- access to information and to justice
- application of environmental impact assessment [42]

The precautionary principle: This principle means that where there are threats of serious environmental damage, lack of full scientific reason for postponing measures to prevent environmental degradation about the potential environmental damage caused by our activities, to prevent environmental damage occurring.

The principle of intergenerational equity: This means that the current generation should make sure that the health, diversity and productivity of the environment continues for the benefit of future generations.

Conservation of biological diversity and ecological integrity: This means conserving the diversity of flora and fauna and the health and sustainability of ecosystems.

Improved valuation, pricing and incentive mechanisms and the polluter pays principle: This means integrating long-term and short-term economic, environmental, social and fairness considerations into decision-making, by making sure that the price of products reflects the true costs of both production and disposal at the end of a product's life.

Public participation in decision making: This means that members of the public should be able to participate at different stages of environmental decision-making processes different opportunities to participate in decision-making, depending on the rights given to the public under different Acts.

Access to information and to justice: This means providing people access to information and to the courts.

Application of environmental impact assessment: This means taking the assessment of environmental impacts into account when making decisions about environmental impact assessment [43].

Legislative Initiative in India

- The Water (Prevention and Control of Pollution) Act of 1974 [44]
- 1980 The Forest (Conservation) Act, [45]
- 1981 The Air (Prevention and Control of Pollution) Act, [46]

- 1986 The Environment (Protection) Act [47]
- Articles 48A and 51A (g). Article 48A, part of the Directive Principles of State Policy [48].

Problems to Implementation Law

- Lack of Elasticity in Legislations:
- Weak Enforcement:
- Poor Monitoring:
- Lack of technically skilled manpower
- Lack of Effective Punitive Measures:
- Limited natural resources.

A.P. Pollution Control Board vs. M.V. Nayudu, the Court referred to the need for establishing Environmental Courts which would have the benefit of expert advice from environmental scientists or technically qualified persons, as part of the judicial process, after an elaborate discussion of the views of jurists in various countries [49]. Indian Council for Environmental Legal Action vs. Union of India, in which the Supreme Court observed that Environmental Courts having civil and criminal jurisdiction must be established to deal with the environmental issues in a speedy manner. M.C. Mehta vs. Union of India, Kanpur Tanneries or Ganga Pollution case is among the most significant water pollution case. It discusses the various legal provisions and the legal duties of municipal bodies and pollution control boards. In the case, alarming details were about the extent of pollution in the river Ganga due to the inflow of sewage from Kanpur, the Court came down heavily on the Municipality. It emphasized that it is the Nagar Mahapalika of Kanpur that has to bear the major responsibility for the pollution of the river near Kanpur city [50].

Current State and Issues of Creation of an International Framework

- Importance of a worldwide framework
- global warming
- Climate Change
- Trade and Environment
- Information networks
- Environmental management capability of each country
- Official development assistance

UNEP Role in Implementation Coordination and Cooperation

United Nations system organizations (UNEP) have traditionally had a catalytic role in initiating the development of new international environmental norms, by negotiation of new multilateral environmental agreements (MEAs). The organization's mandate and demonstrated international implementation of environmental law have been periodically elaborated by UNEP within its sequential 10 year plans of action entitled the Montevideo Programs for the Development and Periodic Review of Environmental Law [51]. Leadership in environmental law places it strategically to spearhead international efforts also to improve coordination and cooperation in the implementation of environmental law Opportunities for MEA Implementation: International Coordination & Cooperation International Sharing of Information many MEAs require their Parties to exchange information as part of their primary operational obligations [52]. For example, they might be required to provide information on proposed environmentally sensitive trade transactions or industrial developments, on ambient environmental conditions or on environmental technologies. Although scientific and technical data concerning environmental baselines and quality changes can feed into performance review information, it does not in itself assess national responses to international obligations. Environmental changes may occur despite, or irrespective of, national environmental measures. Similarly, data concerning operational information exchanges can be fed into performance review information, but such exchanges do not in themselves review performance. Information on National Implementation Information on MEA implementation is not always required at the international level, or made available or transparent. In relation to their performance, Parties are often required to report on the measures they have taken to implement a particular MEA, usually by submitting annual reports on their relevant laws or policies. Some MEAs provide for a third Party, such as a Secretariat, to monitor or verify the performance and require the Parties to cooperate with such monitoring or verification

of their performance. Often, operational and performance information are inter-related, as data from operational information exchanges are fed into performance review. Performance review information is gathered primarily through national self-reporting but a few MEAs also provide for supplementary third-party verification or monitor. Almost all MEAs require Parties to self-report on their national performance [53]. The majority of those MEAs provide guidelines or templates for this purpose a third of those provide for verification of data in national reports or for third-party monitoring of national reporting systems. There are opportunities to engage environmental NGOs and the private sector in this exercise. Some, such as WWF TRAFFIC, the Environmental Investigation Agency and Global Witness, have established reputations with links to MEA Secretariats [54].

CONCLUSION AND SUGGESTIONS

India in implementing the international commitments is to fighting poverty and also development on sustainable basis. In June 1972, first UN-sponsored Conference on Environment that poverty is the worst form of pollution and the most urgent issue facing the international community. India has been reminding the industrialized world that so long as poverty remains the main uncertain block in its road to development, its efforts to protect the environment and conserve resources would not bear the necessary fruits for India, removal of poverty and environmental protection are two sides of the same coin. India has ratified many of the international conventions related to environment protection and has taken a number of initiatives to implement them at the domestic level [55]. India has been very active in all the international forums relating to environmental protection and has signed almost all the multilateral agreements relating to the environment except needs to be done at the domestic level for their implementation the real challenge before India is how to preserve its environment, meet the basic needs of its growing population on an overburdened land, and fulfill the necessary energy requirements of the people, and yet leave a inheritance for future generations so that they may also enjoy the reward of nature which the present

generation is carelessly exploiting. International human rights law and international humanitarian law where applicable are complementary.[56] Human rights law, which is applicable albeit to different degrees in both peace and war, recognizes the right of individuals to have access at all times to safe environment.

- To organize seminars, conferences
- Agreements and treaties on environment protection
- One environment court at international level.
- Implementation of laws
- Nations follow the laws and conventions
- Developed countries contribution
- Awareness programme
- Public participation
- Rural and urban development
- Provides funds
- United nations initiatives
- Governmental legislation at national level

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