

International Environmental Law and Agenda 21: Rio Declaration

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THE QUESTION arises is there any international law of environmental protection either emerging or already emerged. The answer is neither negative nor affirmative. It has emerged in the world scene and progressed to some extent in the direction of creating some balance between the needs of man and ecology. International environmental law is to embrace not only legal arrangements designed or intended primarily regulating pollution or some activity designed to inflict injury to environment in one way or the other.¹ It is to include all legal rules which might be involved in the course of an effort either to justify, or to prevent, abate, or obtain other remedy for an environmental injury. The function of international environmental law is to prevent absolutely the transformation of the environment into energy and useful or enjoyable commodities. In this regard, the United Nations Conference on Human Environment known as Stockholm Conference,² 1972 gave a basis to emerging international environmental law. Then the Earth Summit 1992 at Rio-de-Jeneiro, Brazil

provided a new dimension to it. These International Conferences have become major instruments of evolution of international environmental law and policy. The positive contribution of the Conferences have been:

- (i) stimulation of awareness of issues affecting all or most of the nations;
- (ii) opportunity for hearing grievances and revealing hidden tensions;
- (iii) obtaining agreement among nation-states sufficient to afford a basis for cooperatives action including research and institutional arrangement.³

In the Stockholm Conference, 1972, Indira Gandhi aptly said:

We do not wish to impoverish the environment any further and yet we cannot for a moment forget the grim poverty of large numbers of people. Are not poverty and need the greatest polluters ?

For instance, unless we are in a position to provide employment and purchasing power for the daily necessities of the tribal people and those who live in around our jungles, we cannot prevent them from combing the forest for food and livelihood; from poaching and from despoiling the vegetation. When they themselves feel deprived, how can we urge the preservation of animals.⁴

The Earth Summit-1992 held in Rio-de-Jeneiro was the largest and most complex

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1. Editorial Analysis, "Toward An International Law of Environmental Protection" in Hargrove (ed.), *Law Institutions, and the Global Environment* 93(1972).
2. Goldie, "Development of An International Environmental Law: An Appraisal" in Hargrove (ed.), *id.* at 104.
3. L.K.Caldwell, *International Environment Policy: Emerging Dimensions* 55(1990).
4. Address of Prime Minister Indira Gandhi at the United Nations Conference on the Human Environment, Stockholm, (June 14, 1972).

conference ever organised by the United Nations, system. It was attended by 178 governments and there were some 120 Heads of States at the Summit that concluded the Conference.

The Conference generated five formal documents, viz., treaties on climate change and bio-diversity, a statement on forest principles, the Rio-Declaration and the action programme.

The Action Programme—Agenda 21 covers almost every conceivable issue concerning sustainable development. It contains many useful ideas. The Earth Summit provided an important benchmark in the pattern of global relations of power and influence between nations and blocks of nations.

The world has been provided some new faces in the north-south relationship, following the disappearance of the Soviet Union as a power block. The East/West confrontation is no more in existence and the whole emphasis has shifted towards North-South relationship and bitter division of wealth and poverty resulted in many acrimonious debates during the Earth Summit. The new North-South relationship can be characterised by increasing income differentials and by growing southern influence. There is no question that the new world economic order is heavily tilted in favour of the North and hence, economic disparities are widening.

At present the northern consumption of natural resources are responsible for the emissions that are gradually poisoning the global environment and causing climate change, diminishing bio-diversity and receding ozone layer. But population growth and development needs of North-South countries mean that within a generation emissions may surpass those of all the North. Northern countries also possess many natural resour-

ces particularly tropical forests and their genetic heritage, which need to be managed in the global interest.

The Earth Summit's, most visible new institutional product is "UN Commission on Sustainable Development" which could accelerate the integration of environmental protection with economic development and enhance the quality of life. Agenda 21's conceptual framework recognises the many ways in which economic, social and environmental forces interact. It promotes national strategy to give concrete meaning to sustainable development and it offers a structure for organising international policies and programmes relating to issues involved having regional and global consequence. Second, Earth Summit acknowledged in spirit and in practice, that the UN family of organisations is to be supplemented by regional and treaty organisations and that major groups such as women and youth will more and more complement and extend their activities sponsored by inter-governmental organisations.⁵

Agenda 21 provides a tool for mobilising and coordinating the efforts of the international system as a whole and establishes a framework for other actors to collectively reinforce. The Earth Summit has finally approved the environment/development agenda as an essential element and in creating conditions of stability and well-being which are necessary for peaceful and friendly relations among nations. Developing countries now look forward to a greater share of economic benefits arising from the use of resources within their boundaries.

The prime objective of the Biodiversity Treaty is the conservation of biological diversity, sustainable use of its components, and fair and equitable sharing of benefits from the use of genetic resources. This is to be achieved through appropriate access to genetic resources, appropriate transfer of

5. UN Institutions, *New Partnerships for Sustainable Development: Facing the Future* 37(1991).

relevant technologies and appropriate funding. In addressing technology and sustainable use this treaty goes far beyond existing narrowly defined conservation conventions but some feel that it is also at the expense of a more rigorous treatment of specific actions on global biological diversity.

The Earth Summit gave impetus to the development of international institutions, environmental law which was not keeping pace with the world's ever growing interdependence of the rapidly deteriorating conditions of the Earth. The environmental threat in modern world is grave and needs drastic efforts to arrest the fastly deteriorating ecosystems. This still necessitates the shaping of the face of the international diplomacy for the development of cooperative efforts at the international level. If this is done it will also give more strength and teeth to the developing international environmental law by enforcing provisions of the Rio-Declaration in true spirit. The financial and technological aids to the developing countries are also inevitably essential for the growth of international environmental law which is closely linked with the overhauling and reorganising of the U.N. and its system along with other international institutions. The Earth Summit evolved five "global commons" viz. atmosphere, shared water ways, biological diversity, the Antarctica and the global economy which endanger such problems as export of hazardous waste. The Earth Summit was a positive step in the direction of attaining complex ecological unity. The well-being and survival of life on this planet to a great extent depends upon human behaviour that will prevent the disruption or distraction of the ecological unity. In clear measure, the Earth Summit in terms of ecological unity was designed to interact with the diverse

national opinions and the diverse views of nation states. It is not Utopian to believe that the environmental concerns around the globe may induce the nations to cooperate more rapidly than to rely on the more conventional issues of international relations such as monetary exchange trade investment and human rights.⁶ The development of international environmental law is closely linked with the world's economic institutions in order to renovate the thinking with regard to environmental concern so as to make environmental sustainability a reality indeed.

During the Earth Summit most of the international legal and institutional proposals received serious consideration for change in system rather than a fundamental overhaul. A massive document presented detailed work plans for sustainable development which also includes goals, responsibility and estimates for funding. All the developments in the pre and post Earth Summit era emphasized on the growth of international environmental protection law in ample measures. The Rio- Declaration on environment and development enunciates in principle that human beings are at the centre of concerns for sustainable development entitled to a healthy and protective life in harmony with nature.

The Rio-Declaration's emphasis is on health risks from environmental pollution and hazards and states by the year 2000 measures should be taken to incorporate appropriate environmental health safeguards as part of national development programme in all the countries. All these developments provide that there is a pressing need to safeguard the continued existence of mankind which cannot depend entirely on a global evolution of customary law.⁷

There is world-wide expectation concerning the quality of life and the dignity of humankind. Therefore the concept of pure and healthful environment will undoubtedly

6. *News Release*, World Watch Institute, Washington D.C. 4 (March 14, 1992).

7. Gormley, *Human Rights and Environment: A Need for International Cooperation* 223(1976).

continue to develop international environmental law for quite sometime, at least by the end of this century.

Environmental rights can be effectively safeguarded by a system of conferences, conventions, agreements and international institutions' experience and also by governments who are party to the several international treaties and conventions. The thrust is directed towards preservation of mankind and "man must simply be able to survive as a species and hopefully develop to the point that all peoples benefit from the world's all

too few resources". It is desirable however, to add that man must survive with his inherent sense of dignity under rule of law. Every man has a right to be guaranteed a pure, healthful and decent environment.⁸ The structure of international environmental policy, law and cooperation is building gradually with growing perception in almost all countries for common human concerns irrespective of geographical boundaries for an ecologically more sound world order.

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8. *Id.* at 233.