

International Liability as an Instrument to Prevent and Compensate for Climate Change

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"The environment is everything that isn't me"

Albert Einstein

International environmental law or International ecological law is a field of international law regulating the behavior of states and international organizations with respect to the environment. Core domains for international regulation include management of the world's oceans and fisheries, the polar ice caps, and the regulation of carbon and other particulate emissions into the atmosphere etc.

International environmental law grew as a separate area of public international law in the late 1970s with the Stockholm Conference on the Environment in 1972. Since then interest has steadily increased and it is one of the fastest growing areas of international law. In this research paper author has studied the **role of national and international environment law** as well as studied the **relation between human rights and environment**.

The Author by the means of this research paper wants to draw the attention towards the International cooperation in the form of **treaties, agreements** and **resolutions** created by inter-governmental organizations as well as national laws and regulations are being used to protect the environment like **Convention on the Law of the Non-Navigational Uses of International Watercourses, 1972 UN Convention on the Human Environment, Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and Their Disposal, , Ozone Treaties, 1997 Kyoto Protocol**, and various other conventions and treaties formed by the United Nations under United Nations Environment Programme (UNEP), the European Union, the OECD for protection of environment. At last Author has tried to connect environment and need for **sustainable development** and came to a conclusion.

KEY WORDS: - **Relation between human rights and environment, Role of national and International environment law, sustainable development, treaties**

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Definition of International Environmental Law

International Environment Law began to emerge in a significant way, however, only in late 1960s and 1970s, as part of a growing concern about environmental problems in many developed countries and their growing awareness of the international and global nature of many environmental issues.

Environment law is a broad category of laws that include laws that specifically address environmental issues and more general laws that have a direct impact on environmental issues. ***International environmental law also called International Ecological Law is a field of International law regulating the behavior of states and International organizations with respect to the environment.***

Objective of Study

- To study difference between National and International Environmental Law.
- To study relation between Environment and Human Rights.
- To study various International conventions and treaties regarding protection of Environment.
- To study relation between Sustainable Development and Environment.

Introduction

Environmental law can be divided into two major categories namely, *International Environmental Law* and *National Environmental Law*. The relationship between International Environmental Law and National Environmental Law is mainly on the purpose for which each of the two categories of law were created as well as the scope that each of the two types of law covers. *International Environmental Law* is a law developed between sovereign states to develop standard at the international level and provide the obligations for states including regulating their behavior in international relations in environmental related matter.

National Environmental Law on the other hand applies within a state and regulates the relations of citizens among each other and with the executive within the state. National Environmental Law includes rules at national level that protect environment. These consist of legislations, standards, regulations, institutions and administration adopted to control activities damaging the environment within a state. This would include *inter alia* framework environmental legislations, sectoral legislations and incidental legislations and regulations, depending on the culture of the given country. International Environmental Law can find its application in national law when the state takes

measure to implement its international obligations through the enactment and enforcement of national legislation.²

Relationship between Environment and Human Rights

Human beings are at centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.³

International environmental law is essentially anthropocentric rather than radically ecocentric in character. Occasional references to the 'intrinsic value' of the environment notwithstanding, the subject broadly seeks to serve the interest of humanity in the quality and sustainability of life on Earth. In principle, the protection of human rights and the protection of environment are thus not conceptually incompatible. Indeed, it has even suggested that human rights are themselves dependent on sustaining a natural environment of adequate quality.

All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation.

Without a healthy environment, we are unable to fulfill our aspirations or even live at a level commensurate with minimum standards of human dignity. At the same time, protecting human rights helps to protect the environment. When people are able to learn about, and participate in, the decisions that affect them, they can help to ensure that those decisions respect their need for a sustainable environment.

In recent years, the recognition of the links between human rights and the environment has greatly increased. The number and scope of international and domestic laws, judicial decisions, and academic studies on the relationship between human rights and the environment have grown rapidly. Many countries now incorporate a right to a healthy environment in their constitutions.⁴

There are three main dimensions of the interrelationship between human rights and environmental protection:

² United Nations Environmental Programme, "International Environment Law and National Environment Law" in Lal Kurukulasuriya, Nicholas A. Robinson (Ed), in *Training Manual on International Environmental Law*.

³ Rio Declaration on Environment and Development, Principle 1.

⁴ *Special Rapporteur on human rights and the environment*, "Human right and Environment" <http://www.unep.org/environmentalgovernance/Events/HumanRightsandEnvironment/tabid/2046/Default.aspx>, last accessed on 12 July 2015.

- The environment as a pre-requisite for the enjoyment of human rights (implying that human rights obligations of States should include the duty to ensure the level of environmental protection necessary to allow the full exercise of protected rights).
- Certain human rights, especially access to information, participation in decision-making, and access to justice in environmental matters, as essential to good environmental decision-making (implying that human rights must be implemented in order to ensure environmental protection).
- The right to a safe, healthy and ecologically-balanced environment as a human right in itself.

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Various International conventions for protection of Environment

1972 UN Convention on the Human Environment

United Nations Conference on the Human Environment, byname *Stockholm Conference*, the first United Nations conference that focused on international environmental issues. The conference, held in Stockholm, Sweden, from June 5 to 16, 1972, reflected a growing interest in conservation issues worldwide and laid the foundation for global environmental governance. The final declaration of the Stockholm Conference was an environmental manifesto that was a forceful statement of the finite nature of Earth's resources and the necessity for humanity to safeguard them. The Stockholm Conference also led to the creation of the *United Nations Environment Programme (UNEP)* in December 1972 to coordinate global efforts to promote sustainability and safeguard the natural environment.

Stockholm represented a first taking stock of the global human impact on the environment, an attempt at forging a basic common outlook on how to address the challenge of preserving and enhancing the human environment. United Nations Conference on the Human Environment (UNCHE), Stockholm, Sweden emphasized that defending and improving the environment must become a goal to be pursued by all countries. The Stockholm Declaration and Action Plan defined principles for the preservation and enhancement of the natural environment, and highlighted the need to support people in this process. The Conference indicated that "industrialized" environmental problems, such as habitat degradation, toxicity and acid rain, were not necessarily relevant issues for all countries. In particular, development strategies were not meeting the needs of the poorest countries and communities.

Some of the specific issues addressed were the role which industrialized countries should have in the process of protecting the environment, stating that industrial countries should help to close the gap between them and underdeveloped countries while keeping their own priorities and the protection and improvement of the environment in mind. The conference developed a long set of recommendations to act as goals to pursue its mission.

⁵*United Nations Environment Program*, "Future of Human Rights and Environment"

<http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx>, last accessed on 12 July 2015.

Recommendations included that governments communicate about environmental issues that have international implications (such as air pollution), that governments give attention to the training of those who plan, develop, and manage settlement areas, and that agencies work together to address many issues, such as access to clean water and population growth.⁶

Several principles were included in treaty by the final declaration. These principles are:

- The necessity of conservation, including the preservation of wildlife habitat⁷
- The avoidance of polluting the seas.⁸
- The wide use of nonrenewable resources.⁹
- The importance of developing coordinated planning.¹⁰
- The importance of environmental education.¹¹
- The development of international law regarding environmental pollution and damage.¹²

The United Nations Climate Change Convention and the Kyoto Protocol

The United Nations Framework Convention on Climate Change (UNFCCC) is an international environmental treaty negotiated at the *United Nations Conference on Environment and Development (UNCED)*, informally known as the Earth Summit, held in Rio de Janeiro from 3 to 14 June 1992. The objective of the treaty is to "*stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system*". The United Nations Framework Convention on Climate Change (UNFCCC) was adopted on 9 May 1992, and opened for signature on 4 June 1992, after an Intergovernmental Negotiating Committee produced the text of the Framework Convention. As of March 2014, United Nations Framework Convention on Climate Change has 196 parties.

The Convention states that Parties should act to protect the climate system on the basis of "common but differentiated responsibilities", and that developed country Parties should "take the lead" in addressing climate change.¹³ Under Article 4 of United Nations Framework Convention on

⁶Philippe Boudes, 'United Nations Conference on the Human Environment' (9-15-2014), <http://www.eoearth.org/view/article/156774/>, last accessed on 14th July 2015.

⁷ Principle 4, UN Convention on the Human Environment, Stockholm Conference, 1972.

⁸ Principle 7, UN Convention on the Human Environment, Stockholm Conference, 1972.

⁹ Principle 5, UN Convention on the Human Environment, Stockholm Conference, 1972.

¹⁰ Principle 13, UN Convention on the Human Environment, Stockholm Conference, 1972.

¹¹ Principle 19, UN Convention on the Human Environment, Stockholm Conference, 1972.

¹² Principle 22, UN Convention on the Human Environment, Stockholm Conference, 1972.

¹³ Article 3(1), The United Nations Framework Convention on Climate Change, 9 May 1992.

Climate Change (UNFCCC), all Parties make general commitments to address climate change through, for example, climate change mitigation and adapting to the eventual impacts of climate change.¹⁴

At the core of international efforts to address climate change is the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol. These two treaties represent the international response so far to the compelling evidence, compiled and repeatedly confirmed by the Intergovernmental Panel on Climate Change, that climate change is occurring, and that it is largely due to human activities.

The Convention requires all Parties to implement national programmes and measures to control greenhouse gas emissions and to adapt to the impacts of climate change. Parties also agree to promote the development and use of climate-friendly technologies; education and public awareness of climate change and its impacts; sustainable management of forests and other ecosystems that can remove greenhouse gas from the atmosphere, and to cooperate with other Parties in these matters. Industrialized countries, like United States of America, Spain, Germany, Japan, France etc. which are called *Annex I* Parties under the Convention, have additional commitments. These Parties initially agreed to undertake policies and measures with the specific aim of returning their greenhouse gas emissions to 1990 levels by 2000. Annex I Parties must also provide more frequent national communications and must separately provide yearly reports on their national greenhouse gas emissions. The wealthier developed countries called *Annex II* Parties must also promote and facilitate the transfer of climate friendly technologies to developing countries and to countries with economies in transition.

Annex II countries must also provide financial resources to help developing countries implement their commitments through the Global Environment Facility, which serves as the Convention's financial mechanism, and through bilateral or other multilateral channels.¹⁵

Kyoto Protocol

The *Kyoto Protocol* is an international treaty, which extends the 1992 United Nations Framework Convention on Climate Change (UNFCCC) that commits State Parties to reduce greenhouse gases emissions.

The *Kyoto Protocol* was adopted in Kyoto, Japan, on 11 December 1997 and entered into force on 16 February 2005. There are currently 192 Parties to the Protocol. The Kyoto Protocol implemented the objective of the United Nations Framework Convention on Climate Change to fight global

¹⁴ Article 4, The United Nations Framework Convention on Climate Change, 9 May 1992.

¹⁵ United Nations, 'UNFCCC and the Kyoto Protocol (8th September 2006)'

<http://www.un.org/wcm/content/site/climatechange/pages/gateway/the-negotiations/the-un-climate-change-convention-and-the-kyoto-protocol>, last accessed on 12 July 2015.

warming by reducing greenhouse gas concentrations in the atmosphere to a level that would prevent dangerous anthropogenic interference with the climate system.¹⁶

The Kyoto Protocol has had two commitment periods, the first of which lasts from 2005-2012, and the second 2012-2020.

The 1997 Kyoto Protocol shares the Convention's ultimate objective to stabilize atmospheric concentrations of greenhouse gases at a level that will prevent dangerous interference with the climate system. In pursuit of this objective, the Kyoto Protocol builds upon and enhances many of the commitments already in place under the Convention. Only Parties to the United Nations Framework Convention on Climate Change can become Parties to the Kyoto Protocol. Although all Parties have agreed to further advance the implementation of their existing commitments under the Convention, only Annex I Parties took on new targets under the Protocol. Specifically, these Parties have agreed to binding emission targets over the 2008-2012 timeframe.¹⁷

Some of the principal concepts of the Kyoto Protocol are:

- Binding commitments for the Annex I Parties. The main feature of the Protocol is that it established legally binding commitments to reduce emissions of greenhouse gases for Annex I Parties. The commitments were based on the Berlin Mandate, which was a part of UNFCCC negotiations leading up to the Protocol.
- Implementation. In order to meet the objectives of the Protocol, Annex I Parties are required to prepare policies and measures for the reduction of greenhouse gases in their respective countries. In addition, they are required to increase the absorption of these gases and utilize all mechanisms available, such as joint implementation, the clean development mechanism and emissions trading, in order to be rewarded with credits that would allow more greenhouse gas emissions at home.
- Minimizing Impacts on Developing Countries by establishing an adaptation fund for climate change.
- Accounting, Reporting and Review in order to ensure the integrity of the Protocol.
- Compliance. Establishing a Compliance Committee to enforce compliance with the commitments under the Protocol.

The Kyoto Protocol broke new ground by defining three innovative "flexibility mechanisms" to lower the overall costs of achieving its emissions targets. These mechanisms enable Parties to access cost-effective opportunities to reduce emissions, or to remove carbon from the atmosphere, in other

¹⁶ Article 2, United Nations Framework Convention on Climate Change.

¹⁷United Nations, 'UNFCCC and the Kyoto Protocol (8th September 2006)' <http://www.un.org/wcm/content/site/climatechange/pages/gateway/the-negotiations/the-un-climate-change-convention-and-the-kyoto-protocol>, last accessed on 12 July 2015.

countries. While the cost of limiting emissions varies considerably from region to region, the effect for the atmosphere of limiting emissions is the same, irrespective of where the action is taken.

All three mechanisms under the Kyoto Protocol are based on the Protocol's system for the accounting of targets. Under this system, the amount to which an Annex I Party (with a commitment inscribed in Annex B of the Kyoto Protocol) must reduce its emissions over the five year commitment period (known as its "assigned amount") is divided into units each equal to one ton of carbon dioxide equivalent. These assigned amount units (AAUs), and other units defined by the Protocol, contribute the basis for the Kyoto mechanisms by providing for a Party to gain credit from action taken in other Parties that may be counted towards its own emissions target.

The three Kyoto mechanisms are:

- The Clean development Mechanism (CDM) defined in Article 12 provides for Annex I Parties to implement projects that reduce emissions in non-Annex I Parties, or absorb carbon through afforestation or reforestation activities, in return for certified emission reductions (CERs, tCERs and ICERs) and assist the host Parties in achieving sustainable development and contributing to the ultimate objective of the Convention. The CDM is supervised by the CDM Executive Board.
- The basic principles of the mechanism commonly referred to as "Joint Implementation (JI)" are defined in Article 6 of the Kyoto Protocol. Under JI, an Annex I Party (with a commitment inscribed in Annex B of the Kyoto Protocol) may implement an emission-reducing project or a project that enhances removals by sinks in the territory of another Annex I Party (with a commitment inscribed in Annex B of the Kyoto Protocol) and count the resulting Emission reduction units (ERUs) towards meeting its own Kyoto target.
- Emissions trading, as set out in Article 17, provides for Annex I Parties to acquire units from other Annex I Parties. These units may be in the form of removal units (RMUs), ERUs.

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal was adopted on 22 March 1989 by the Conference of Plenipotentiaries in Basel, Switzerland, in response to a public outcry following the discovery, in the 1980s, in Africa and other parts of the developing world of deposits of toxic wastes imported from abroad.

The overarching objective of the Basel Convention is to protect human health and the environment against the adverse effects of hazardous wastes. Its scope of application covers a wide range of wastes defined as "hazardous wastes" based on their origin and/or composition and their characteristics. The basic purposes of the Convention are to ensure that states have the full ability to protect their own environment and to enable them to not permit actions which might have adverse effects on the environment such as a transboundary movement of hazardous waste. The Convention

requires a prior informed consent that must be followed before any export or import is allowed to or from another party. The Exporting State is obliged to get the written approval of the Importing state for such a movement to be legal under the Basel Convention. In this context, each party has the right to ban any import or export of hazardous or other wastes.

Aims and provisions

The provisions of the Convention center around the following principal aims:

- The reduction of hazardous waste generation and the promotion of environmentally sound management of hazardous wastes, wherever the place of disposal;
- The restriction of transboundary movements of hazardous wastes except where it is perceived to be in accordance with the principles of environmentally sound management
- A regulatory system applying to cases where transboundary movements are permissible.

The aims of Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal is addressed through a number of general provisions like requiring States to observe the fundamental principles of environmentally sound waste management.¹⁸

Parties may, however, enter into bilateral or multilateral agreements on hazardous waste management with other parties or with non-parties, provided that such agreements are “no less environmentally sound” than the Basel Convention.¹⁹

The Convention also provides for the establishment of regional or sub-regional centres for training and technology transfers regarding the management of hazardous wastes and other wastes and the minimization of their generation to cater to the specific needs of different regions and sub regions.²⁰

Similar to most modern multilateral environmental agreements, the Basel Convention features its own institutional framework. The COP is the supreme decision-making body of the Convention. The Basel Convention Secretariat, provided by UNEP, prepares, organizes and services meetings under the Convention, facilitates exchange of information and provides guidance and assistance to parties on legal and technical issues. The Secretariat also has a limited mandate to facilitate

¹⁸ Article 4, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1989.

¹⁹ Article 11, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1989.

²⁰ Article 14, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1989.

implementation of the Convention by parties. The Subsidiary Bodies of the Conference of the Parties are the Expanded Bureau, the Open-ended Working Group and the Implementation and Compliance Committee. As such, it is likely to play a significant part in the overarching United Nations-wide International Environmental Governance process and is often perceived as a possible model for other areas of international cooperation. In legal terms, the convening of simultaneous extraordinary meetings of the supreme governing bodies of three independent treaties – and the adoption by these meetings of substantially identical decisions – is likewise an unprecedented and innovative step.

International Convention for the Prevention of Pollution from Ships

"The International Convention for the Prevention of Pollution from Ships (MARPOL) is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes". The MARPOL Convention was adopted on 2 November 1973 at International Maritime Organization. MARPOL is one of the most important international marine environmental conventions. It was brought about in an effort to minimize pollution of the oceans and seas, including dumping, oil and air pollution.

\The objective of this convention is to preserve the marine environment in an attempt to completely eliminate pollution by oil and other harmful substances and to minimize accidental spillage of such substances. The International Convention for the Prevention of Pollution from Ships 1973 as amended by the Protocol of 1978, which is more commonly known as MARPOL 73/78, is the most ambitious attempt on a global level to prevent marine pollution from operational activities and accidents

The 1978 Protocol was absorbed into the parent Convention and the combined instrument entered into force in 1983. In 1997, a Protocol was adopted to amend the Convention and a new Annex VI was added, which came into force in May 2005. The technical requirements of MARPOL are included in six separate Annexes:

- **Annex I**— (*Regulations for the Prevention of Pollution by Oil*), Regulations for the Prevention of Pollution by Oil (entered into force 2 October 1983) covers prevention of pollution by oil from operational measures as well as from accidental discharges.
- **Annex II**—(*Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk*), Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk (entered into force 2 October 1983) sets the discharge criteria and measures for the control of pollution by noxious liquid substances carried in bulk. Some 250 substances were evaluated and included in the list appended to the Convention. The discharge of their residues is allowed only to reception facilities until certain concentrations and conditions (which vary with the category of substances) are complied with.

- **Annex III**— (*Prevention of Pollution by Harmful Substances Carried in Sea in Packaged Form*), Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form (entered into force 1 July 1992) contains general requirements for the issuing of detailed standards on packing, marking, labeling, documentation, stowage, quantity limitations, exceptions and notifications for preventing pollution by harmful substances
- **Annex IV**— (*Prevention of Pollution by Sewage from Ships*), Prevention of Pollution by Sewage from Ships (entered into force 27 September 2003) contains a set of regulations regarding the discharge of sewage into the sea, ships' equipment and systems for the control of sewage discharge, the provision of facilities at ports and terminals for the reception of sewage, and requirements for survey and certification of ships.
- **Annex V**—(*Prevention of Pollution by Garbage from Ships*), Prevention of Pollution by Garbage from Ships (entered into force 31 December 1988) requires the separation of different types of garbage and specifies the distances from land and the manner in which they may be disposed of, otherwise they should be delivered to shore based reception facilities. The requirements are much stricter in a number of "special areas" but perhaps the most important feature of the Annex is the complete ban imposed on the dumping into the sea of all forms of plastic
- **Annex VI**—(*Prevention of Air Pollution from Ships*), Prevention of Air Pollution from Ships (entered into force 19 May 2005 and the revised Annex VI on 1 July 2010) sets limits on sulphur oxide and nitrogen oxide emissions from ship exhausts as well as particulate matter and prohibits deliberate emissions of ozone depleting substances, such as hydrochlorofluorocarbons. More stringent standards are set for Emission Control Areas designated by IMO.

Sustainable development and Environment

The first publicly visible use of the term 'Sustainable Development' was most probably in 1980 when it appeared in the World Conservation Strategy (WCS), a document prepared by the International Union for Conservation of Nature and Natural Resources (IUCN). The WCS defined "Sustainable Development" as the '*The integration of conservation and development to ensure that modifications to the planet do indeed secure survival and well-being of all people*'.²¹

The term 'sustainable development' was given international prominence and refined in 1987 by the World Commission on Environment and Development (Brundtland Commission), an independent body created by the UNGA. Its report, *Our Common Future*, brought the term 'sustainable

²¹ International Union for Conservation of Nature and Natural Resource, *World Conservation Strategy: Living Resource for Sustainable Development*.

development' to the forefront of international discourse and policy making. The Brundtland Commission discussion of sustainable development emphasized that technology and social organization are affecting the natural environment, and its provisions of what are now referred to as 'Environmental service', in ways that societies,' ability to meet current and future needs and, thus that the environment must be protected. According to this report, the major objective of development should be to ensure the satisfaction of human needs and aspirations of a material kind. It emphasized the fact that over exploitation of resources may compel human societies to compromise their ability to meet the essential needs of their people in future. Settled agriculture, the diversion of watercourses, the extraction of minerals, the emission of heat and noxious gases into the atmosphere, commercial forests, and genetic manipulation, were all mentioned in the report as examples of human intervention in natural system during the course of development. It called upon all countries to adopt the objective of sustainable development as the overriding goal and test of national policy and international cooperation.²²

The 1992 UN Conference on Environment and Development (UNCED) in Rio de Janeiro, Brazil, was the first time that the world's governments officially adopted sustainable development as development paradigm. Sustainable development is underlying theme of the five instrument adopted by 172 countries represented by heads of state or other leaders at UNCED. The United Nations Framework Convention on Climate Change (UNFCCC), a legally binding international agreement intended to stabilize greenhouse gases in atmosphere at a level preventing dangerous anthropogenic interference with the climate system, provides in Article 3, on principles that the parties have a right to, and should, promote sustainable development. The Convention on Biological Diversity (CBD), a legally binding agreement that strives to conserve the world's genetic, species, and ecosystem diversity emphasizes 'sustainable development'.

DIFFERENT DIMENSIONS OF SUSTAINABLE DEVELOPMENT

Sustainable development has many dimensions. Some of them are briefly described in the followings:-

1. Social Dimension

- Workers' health and safety.
- Impact on local communities, quality of life.
- Benefits to disadvantaged groups, for example, the disabled

2. Economic Dimension

²² Abdul Ghafoor Awan, "RELATIONSHIP BETWEEN ENVIRONMENT AND SUSTAINABLE ECONOMIC DEVELOPMENT: A THEORETICAL APPROACH TO ENVIRONMENTAL PROBLEMS" (2013), International Journal of Asian Social Science (<http://www.aessweb.com/pdf-files/741-761.pdf>), last accessed on 7th August 2015.

- Creation of new markets and opportunities for sales growth.
- Cost reduction through efficiency improvements and reduced energy and raw material inputs.
- Creation of additional value

3. Environmental Dimension

- Reduced waste, effluent generation, emissions into environment.
- Reduced impact on human health.
- Use of renewable raw materials.
- Elimination of toxic substances

In 1994 sustainable development was recognized as an objective of the World Trade Organization (WTO) and in then 2000, the UNGA adopted the United Nations Millennium Declaration, which reaffirmed the UNGA's support for principles of sustainable development agreed upon at UNCED.

The Millennium Declaration also identified eight goals, known as the Millennium Declaration Goals (MDGs), which all 191 United Nations members have agreed to try and achieve by the year of 2015. Some MDGs are:-

1. Eradicate extreme poverty and hunger

- Reduce by half the proportion of people whose income is less than \$1 a day
- Achieve full and productive employment and decent work for all, including women and young people
- Reduce by half the proportion of people who suffer from hunger

2. Achieve universal primary education

- Ensure that all boys and girls complete a full course of primary schooling

3. Promote gender equality and empower women

- Eliminate gender disparity in primary and secondary education preferably by 2005, and in all levels of education no later than 2015

4. Reduce child mortality

- Reduce by two thirds the mortality of children under five

5. . Ensure environmental sustainability

- Integrate principles of sustainable development into country policies and programmes; reverse the loss of environmental resources
- Reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss
- Halve the proportion of people without access to safe drinking water and basic sanitation

Conclusion

Given the development of new times of concerns, new actors, and new standard setting and compliance processes, it is no exaggeration to say that international environmental law has emerged as a distinct field. The global environmental problems make up a classic case of the tragedy of the commons. "Ruin is the destination toward which all men rush, each pursuing his own best interest in a society which believes in the freedom of the commons. Freedom in a commons brings ruin to all."²³ International society is only slowly waking up to the consequences of its own actions toward the global commons. The challenge is how to legislate temperance using the only means at our disposal, international law. International law on the one hand provides for a series of autonomous prevention obligations and on the other a due diligence obligation to prevent transboundary harm where the prevention obligations play an important role. It is this lack of strength and clarity of the prevention obligations that renders the content of the general no-harm obligation equally weak. The due diligence obligation appears to be problematic since it consists of the prevention obligations. Moreover, the sense of stability that international environmental standards can provide for is compromised by their lack of normative weight. Overall, it seems that states can fulfill their due diligence obligation rather easily. This is not to say that there has not been significant progress during the last years towards the strengthening of the obligations. The fact that states are more willing than ever to litigate on these matters testifies to the growing awareness of the problems that relate to the prevention obligations. The situation where a state has fulfilled its due diligence obligation and nevertheless transboundary environmental harm does occur is the most troubling aspect of the whole matrix of obligations. It seems that the task international law faces is twofold: on the one hand strengthening the obligations to prevent transboundary harm must become a priority. On the other hand an effective international system of liability must be developed so as to cover the instances where damage occurs and the engagement of the rules on state responsibility is not an option since the primary obligation has not been breached. Only if these two goals are met will the states develop more nuanced, detailed and, more importantly, efficient rules governing the prevention of transboundary harm.

²³ Hardin, *The tragedy of the Commons*, 162 Science 142 (1968), reprinted in *ECONOMICS, ECOLOGY, AND ETHICS* 100, 104 (H. Daly ed. 1973).

References

1. United Nations Environmental Programme, "International Environment Law and National Environment Law" in Lal Kurukulasuriya, Nicholas A. Robinson (Ed), in *Training Manual on International Environmental Law*.
2. Rio Declaration on Environment and Development, Principle 1.
3. *Special Rapporteur on human rights and the environment*, "Human right and Environment" <http://www.unep.org/environmentalgovernance/Events/HumanRightsandEnvironment/tabid/2046/Default.aspx> accessed on 12 July 2015.
4. *United Nations Environment Program*, "Future of Human Rights and Environment" <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx> accessed on 12 July 2015
5. Article 3(1), The United Nations Framework Convention on Climate Change, 9 May 1992
6. Article 4, The United Nations Framework Convention on Climate Change, 9 May 1992
7. United Nations, 'UNFCCC and the Kyoto Protocol (8th September 2006)' <http://www.un.org/wcm/content/site/climatechange/pages/gateway/the-negotiations/the-un-climate-change-convention-and-the-kyoto-protocol> accessed on 12 July 2015.
8. Article 2, United Nations Framework Convention on Climate Change
9. United Nations, 'UNFCCC and the Kyoto Protocol (8th September 2006)' <http://www.un.org/wcm/content/site/climatechange/pages/gateway/the-negotiations/the-un-climate-change-convention-and-the-kyoto-protocol> accessed on 12 July 2015.
10. Rahaman, M.M. (2009) Principles of international water law: Creating effective transboundary water resources management, *International Journal of Sustainable Society*, Vol. 1, No. 3, pp. 207–223. doi:10.1504/IJSSOC.2009.027620
11. Article 4, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1989
12. Article 11, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1989
13. Article 14, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1989
14. Philippe Boudes, 'United Nations Conference on the Human Environment' (9-15-2014), <http://www.eoearth.org/view/article/156774/> accessed on 14th July 2015
15. Principle 4, UN Convention on the Human Environment, Stockholm, 1972
16. Principle 7, UN Convention on the Human Environment, Stockholm, 1972
17. Principle 5, UN Convention on the Human Environment, Stockholm, 1972
18. Principle 13, UN Convention on the Human Environment, Stockholm, 1972
19. Principle 19, UN Convention on the Human Environment, Stockholm, 1972
20. Principle 20, UN Convention on the Human Environment, Stockholm, 1972
21. Principle 22, UN Convention on the Human Environment, Stockholm, 1972
22. Principle 26, UN Convention on the Human Environment, Stockholm, 1972
23. International Union for Conservation of Nature and Natural Resource, *World Conservation Strategy: Living Resource for Sustainable Development*.

24. Abdul Ghafoor Awan, "RELATIONSHIP BETWEEN ENVIRONMENT AND SUSTAINABLE ECONOMIC DEVELOPMENT: A THEORETICAL APPROACH TO ENVIRONMENTAL PROBLEMS" (2013), International Journal of Asian Social Science (<http://www.aessweb.com/pdf-files/741-761.pdf>) accessed on 7th August 2015.
25. Hardin, *The tragedy of the Commons*, 162 Science 142 (1968), *reprinted in* ECONOMICS, ECOLOGY, AND ETHICS 100, 104 (H. Daly ed. 1973).