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**INTERNATIONAL ENVIRONMENTAL LAWS – CONCEPT, ELEMENTS
AND PRINCIPLES**

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ABSTRACT

We live in a world where we are subject to environmental and economic effects that transcend national boundaries. Increasing globalization has led to a greater recognition of the need to address many of these issues through a global or a regional approach. Hence, International Environment Laws and their implementation are necessary to establish a consensus among the states and to realize the goal of sustainability. The broad category of "environmental law" may be broken down into a number of more specific regulatory subjects. While there is no single agreed-upon taxonomy, the core environmental law regimes address environmental pollution. A related but distinct set of regulatory regimes, now strongly influenced by environmental legal principles, focus on the management of specific natural resources, such as forests, minerals, or fisheries. Other areas, such as environmental impact assessment, may not fit neatly into either category, but are nonetheless important components of environmental law. Various international bodies organize conferences that assist decision makers with information, legal analysis, advisory services, legislative drafting, mentoring and capacity building at national, regional and global levels. They also provides the opportunity and the forum for governments, non-government organizations and others to network and to share information and discuss ideas.

Keywords:

Environmental Law, Environmental Protocol, Environmental Conservation.

INTRODUCTION

Environmental protection and conservation is the need of the hour. Better utilization of human and natural resources would make the country strong and powerful. Every problem has an answer. Today, most discussions on environmentalism in our country begin with the Stockholm Conference (1972). But, some ancient texts tell us that our society paid more attention to protecting our environment than we can imagine. These texts tells us that it was the dharma of each individual in society is to protect Nature, so much so that people worshipped the objects of nature. Manusmriti prescribed different punishments for causing injury to plants. Kautilya's went a step further and determined punishments on the basis of the importance of a particular part of a tree. Inferentially, we can state that environmental management and control of pollution was not limited to an individual or a group, but society as a whole accepted its duty to protect the environment.

When attempting to determine the boundaries of international environmental law, no clear definition can be applied. Like many other branches of international law, international environmental law is interdisciplinary, intersecting and overlapping with numerous other areas of research, including economics, political science, ecology, human rights and navigation/admiralty.

Until the late 1960s, most international agreements aimed at protecting the environment served narrowly defined utilitarian purposes. Beginning with the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment, however, international agreements came to reflect a desire to limit damages to the environment. These international agreements paralleled national legislation which increasingly sought to preserve the environment.

International environmental law encompasses a diverse group of topics, including:

- Climate Change (United Nations Framework Convention on Climate Change and the Kyoto Protocol on Global Warming)
- Sustainable Development (The Rio Declaration on Environment and Development)
- Biodiversity (Convention on Biological Diversity)
- Trans-frontier Pollution (Convention on Long-Range Trans-boundary Air Pollution)
- Marine Pollution (Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter)
- Endangered Species (Convention on International Trade in Endangered Species (CITES))
- Hazardous Materials and Activities (Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and Their Disposal)
- Cultural Preservation (Convention Concerning the Protection of the World Cultural & Natural Heritage)
- Desertification (United Nations Convention to Combat Desertification)
- Uses of the Seas (United Nations Convention on Law of the Sea (UNCLOS))

PRINCIPLES OF ENVIRONMENT LAW

Environmental law has developed in response to emerging awareness of and concern over issues impacting the entire world. While laws have developed piecemeal and for a variety of reasons, some effort has gone into identifying key concepts and guiding principles common to environmental law as a whole. The principles discussed below are not an exhaustive list and are not universally recognized or accepted. Nonetheless, they represent important principles for the understanding of environmental law around the world.

SUSTAINABLE DEVELOPMENT

It is defined by the United Nations Environment Programme as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". Laws mandating environmental impact assessment and requiring or encouraging development to minimize environmental impacts may be assessed against this principle. The modern concept of sustainable development was a topic of discussion at the 1972 United Nations Conference on the Human Environment (Stockholm Conference), and the driving force behind the 1983 World Commission on Environment and Development (WCED, or Bruntland Commission). In 1992, the first UN Earth Summit resulted in the Rio Declaration, Principle 3 of which reads: "The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations." Sustainable development has been a core concept of international environmental discussion ever since, including at the World Summit on Sustainable Development (Earth Summit 2002), and the United Nations Conference on Sustainable Development (Earth Summit 2012, or Rio+20).

Equity – Intergenerational Equity

Defined by UNEP to include intergenerational equity - "the right of future generations to enjoy a fair level of the common patrimony" environmental equity considers the present generation under an obligation to account for long-term impacts of activities, and to act to sustain the global environment and resource base for future generations. Pollution control and resource management laws may be assessed against this principle.

Trans-Boundary Responsibility

Defined in the international law context as an obligation to protect one's own environment, and to prevent damage to neighboring environments, UNEP considers trans-boundary responsibility at the international level as a potential limitation on the rights of the sovereign state. Laws that act to limit externalities imposed upon human health and the environment may be assessed against this principle.

Public Participation and Transparency

UNEP defines this as "effective protection of the human right to hold and express opinions," "a right of access to information held by governments and industrial concerns on policies regarding the sustainable use of natural resources and the protection of the environment" and "effective judicial and administrative proceedings." These principles are present in environmental impact assessment, laws requiring publication and access to relevant environmental data, and administrative procedure.

Precautionary Principle

The Rio Declaration formulated this debated principle as follows: "In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation". The principle may play a role in any debate over the need for environmental regulation.

Prevention

Emission limits and other product or process standards, the use of best available techniques and similar techniques can all be seen as applications of the concept of prevention.

Polluter Pays Principle

The principle states that "the environmental costs of economic activities, including the cost of preventing potential harm, should be internalized rather than imposed upon society at large." All issues related to responsibility for cost for environmental remediation and compliance with pollution control regulations involve this principle.

GEARS OF ENVIRONMENT LAW

Environmental Laws comprise of varied factors that affect the quality of life and its sustainability for future generations. These are constituted by a number of related but distinct set of regulatory subjects. The core environmental law regimes address environmental pollution. The ambit of Environmental laws can be divided as:-

Environmental Impact Assessment

Environmental impact assessment (EIA) is the formal process used to predict the environmental consequences (positive or negative) of a plan, policy, program, or project prior to the decision to move forward with the proposed action. An impact assessment may propose measures to adjust impacts to acceptable levels or to investigate new technological solutions.

Air Quality Law

Air quality laws are designed specifically to protect human health by limiting or eliminating airborne pollutant concentrations, chemicals that affect the ozone layer, and emissions to address acid rain or climate change. Regulatory efforts include setting limits on acceptable emissions levels, and dictating necessary or appropriate mitigation technologies.

Water Quality Law

Water quality laws govern the release of pollutants into water resources, including surface water, ground water, and stored drinking water. Regulatory efforts may include identifying and categorizing water pollutants, dictating acceptable pollutant concentrations in water resources, and limiting pollutant discharges from effluent sources.

Waste Management Law

Waste management laws govern the transport, treatment, storage, and disposal of all manner of waste, including municipal solid waste, hazardous waste, and nuclear waste, among many other types.

Containment Cleanup - Environmental Cleanup Law

Environmental cleanup laws govern the removal of pollution or contaminants from environmental media such as soil, sediment, surface water, or ground water. Unlike pollution control laws, cleanup laws are designed to respond after-the-fact to environmental contamination.

Chemical Safety

Regulatory efforts include banning specific chemical constituents in consumer products (e.g., Biphenyl A in plastic bottles), and regulating pesticides.

Mineral Resources - Mining Law

Mining is also affected by various regulations regarding the health and safety of miners, as well as the environmental impact of mining.

Forest Resources - Forestry Law

Forestry laws govern activities in designated forest lands, most commonly with respect to forest management and timber harvesting. Broader initiatives may seek to slow or reverse deforestation.

Wildlife and Plants

Wildlife laws govern the potential impact of human activity on wild animals & plants, whether directly on individuals or populations, or indirectly via habitat degradation.

CONCLUSION

The necessity of Environmental laws is well-recognized. However, there are debates over the necessity, fairness, and cost of environmental regulation. Allegations of scientific uncertainty fuel the ongoing debate over greenhouse gas regulation and are a major factor in the debate over whether to ban pesticides. It is very common for regulated industry to argue against environmental regulation on the basis of cost. Difficulties arise, however, in performing cost-benefit analysis of environmental issues. It is difficult to quantify the value of an environmental value such as a healthy ecosystem, clean air, or species diversity. Controversy is not limited to those who oppose environmental regulation: many groups take the position that current regulations are inadequately protective, and advocate for strengthening regulations.

REFERENCE

1. *“Multilateral Environmental Agreement Negotiator’s Handbook: Pacific Region 2013”* - Taylor, Prue; Stroud, Lucy; Peteru, Clark (2013).
2. *“A Textbook of environmental Studies”* – Dr. D.K. Asthana, Dr. Meera Asthana (2010)

3. *“Environmental Science” – Dr. Vijay Kumar Tiwari (2010)*
4. *“Environmental Awareness” – Dr. S.K. Agarwal (1995)*
5. *“A Textbook of Environmental Chemistry and Pollution Control” – Dr. S.S. Dara, Dr. D.D. Mishra (2011)*
6. *“Guide to International Environmental Law” - Alexandre C. Kiss and Dinah Shelton (2007)*
7. *“The Art and Craft of International Environmental Law” - Daniel Bodansky (2011)*
8. *“The Oxford Handbook of International Environmental Law” – Daniel Bodansky (2007)*
9. *“Guide to International Environmental Law” - Alexandre Charles Kiss and Dinah Shelton (2007)*
10. *“NGT International Journal on Environment Vol-1 of 2014” – National Green Tribunal*
11. *WorldCat (<http://www.oclc.org/en-US/worldcat.html>)*
12. *International Environmental Law and Policy: A Comprehensive Reference Source (<http://www.wcl.american.edu/pub/iel/index.html>)*
13. *ECOLEX (<http://www.ecolex.org/index.php>)*
14. *FAOLEX (<http://faolex.fao.org/faolex/>)*
15. *Environment Law (https://en.wikipedia.org/wiki/Environmental_law)*
16. *CLIMATE-L (<http://climate-l.iisd.org/about-the-climate-lmailing-list/>)*
17. *ENVLAWPROFESSORS (majordomo@lists.uoregon.edu)*