

Environmental Law

A collective term describing the network of treaties, statutes, regulations, common and customary laws addressing the effects of human activity on the natural environment.

- The core environmental law regimes address environmental pollution.
- A related set of regulatory regimes focus on the management of specific natural resources, e.g., 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.

Pollution Control Law

- Environmental Impact Assessment
- Air Quality Law
- Water Quality Law
- Waste Management Law
- Environmental Cleanup Law
- Chemical Safety Law

Natural Resources Law

- Species protection Law
- Water Resources Law
- Mining Law
- Forestry Law
- Fisheries Law
- Game Law

Principles

- **Sustainable development** ---- Integration (development cannot be considered in isolation from sustainability) and Interdependence (social and economic development, and environmental protection, are interdependent).
- **Equity** ---- The right of future generations to enjoy a fair level of the common patrimony.
- **Transboundary responsibility**----- An obligation to protect one's own environment, and to prevent damage to neighboring environments.
- **Public participation and transparency**---- Effective protection of the human right to hold and express opinions and to seek, receive and impart ideas.
- **Precautionary principle**----If an action or policy has a suspected risk of causing harm to the public, or to the environment, in the absence of scientific consensus, the burden of proof that it is not harmful falls on those taking that action.
- **Prevention**----An overarching aim that gives rise to a multitude of legal mechanisms, licensing or authorization that set out the conditions for operation and the consequences for violation of the conditions, as well as the adoption of strategies and policies.
- **Polluter pays principle**----The environmental costs of economic activities, including the cost of preventing potential harm, should be internalized rather than imposed upon society at large.

International Environmental Law (IEL)

- IEL is the body of rules of international law that are concerned with the protection of the global environment.
- IEL protects the environment from pollution, misuse, overuse and other damage.
- The environmental problems are not confined to national boundaries. Therefore, national laws cannot by itself provide adequate protection for the environment.
- The study of IEL is an important part of our attempts to control environmental problems.

Sources of IEL

- Hard law and soft law are the two main sources of IEL.
- Hard law refers to international rules that are binding on states in their relations with other states → ex: treaties, customs.
- Soft Law refers to international rules that are not binding in themselves → ex: resolutions and declarations of the UN General Assembly.
- Treaties are the most authoritative source of IEL → ex: the Whaling Convention and the Climate Change Convention 1992.
- Although soft law is not legally binding, it can have moral and political authority → it can influence the creation of new international rule through customary international law. Ex: Stockholm declaration and Rio declaration played a fundamental role in development of environmental protection.
- Customary rules also forms a part of IEL.
- Flexibility gives advantage to custom as a source of IEL

Some Features of IEL

- Regulation at international as opposed to national level
- Global environmental problems have global /regional /national dimensions
- Environmental problems not contained within national/territorial boundaries
- Environment is shared. Need to protect environment is paramount in relationship between States
- Transboundary and global environmental problems require international regulation and solutions
- International agreements /treaties /conventions establish standards
- International agreements have developed principles of environmental law
- Recent focus on procedures and incentives to secure compliance

Examples on a number of disasters that caused serious environmental problems

- ❑ Chernobyl Nuclear Power Plant (April 26, 1986): two gas explosions resulting in the release of a cloud of smoke, gas and radiation that continued to burn for at least a week. The radiation from Chernobyl moved over Norway, Sweden and Finland and reached the heart of Europe, and small amount of the radiation has reached the U.S.
- ❑ The Sandoz Chemical Spill (November 1, 1986): A fire was set in Sandoz agrochemical storehouse, Switzerland resulting in the release of toxic agrochemical material in the Rhine river, in one of Europe's most serious catastrophes.
- ❑ In 1991, near the end of gulf war, retreating Iraqi forces set fire to over 600 Kuwaiti oil wells, causing a serious pollution in the atmosphere during the nine month it took to extinguish these fires.
- ❑ In 1993, a Norwegian tanker spilled 4000 tons of sulfuric acid into the sea of the Mexican coast.
- ❑ The issue of global warming and climate change: in June 2006, the glaciers of Greenland were melting twice as quickly as they were five years earlier. The ice layers of Antarctica are also shrinking at unprecedented speed.

Examples of Customary International Environmental law (CIEL)

- ❖ Responsibility of a state not to engage in activity that cause damage to the environment of other states, unless the transboundary environmental impact of this activity proves to be insignificant.
- ❖ Obligation of state not to allow any activity that could harm its environment, unless an environmental impact assessment has shown that the activity in question is allowed.
- ❖ Obligation of a state to give all neighboring states prior notice of any activity on its territory that might affect the environment of other states.

The Environmental Challenge

- The planet faces a number of environmental challenges that can only be faced through international cooperation.
- The environmental problems have an international dimension in two obvious aspects:
 - The pollution generated from a particular state has a serious impact upon other states.
 - It is now settled that environmental problems cannot be solved by states acting individually. → cooperation between the polluting and the polluted state is necessary.
- ❑ International organizations, mainly the UN and the UN Specialized agencies, play an important role in developing IEL, and in promoting agreement among states during the treaty negotiations.
- ❑ International organizations also monitor the implementation of international treaties concerned with the protection of the environment.

Some International Environmental Laws

- Conservation on Law of the Sea 1954
- Atmosphere 1955 – issue of nuclear testing = Test Ban Treaties 1955
- International Maritime Organisation first met 1954
- 1971 Ramsar Convention on Wetlands
- 1972 Stockholm Convention on Human Environment
- Action Plan; Declaration (26 Principles) – Principle 21*

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- 1987 World Commission on Environment and Development *Our Common Future* Brundtland Report Sustainable Development.
- 1992 UN Conference on Environment and Development - Rio – 176 States attended.
- Rio Declaration
- Convention on Biological Diversity
- Framework Convention on Climate Change
- Agenda 21

First International Meeting: The Stockholm Conference 1972

- The UN considered the continuous harm of the human environment and its adverse effect on the condition of man, his physical, mental and social well-being.
- The United Nations held a Conference on the Human Environment at Stockholm from 5 to 16 June 1972.
- The Stockholm Conference aimed at setting the common principles necessary for the preservation and enhancement of the human environment.

The Second International Meeting: Rio Conference 1992

- The UN Conference held at Rio de Janeiro from 3 to 14 June 1992, for the purpose of establishing a Commission on Sustainable Development.

Environmental Laws in India

- Environment Protection Act, 1986.
- The Water (Prevention and Control of Pollution) Act, 1974
- The Water (Prevention and Control of Pollution) Cess Act, 1977
- The Forest (Conservation) Act, 1980
- The Air (Prevention and Control of Pollution) Act, 1981
- Air (Prevention and Control of Pollution) (Union Territories) Rules, 1983
- The Biological Diversity Act, 2002 and the Wild Life Protection Act, 1972.
- Batteries (Management and Handling) Rules, 2001
- Recycled Plastics, Plastics Manufacture and Usage Rules, 1999

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- The National Green Tribunal established under the National Green Tribunal Act of 2010.
- Water (Prevention and Control of Pollution) Cess Rules, 1978
- Ganga Action Plan, 1986
- The Forest (Conservation) Act, 1980
- The Public Liability Insurance Act, 1991 and the Biological Diversity Act, 2002.
- Basel Convention on Control of Transboundary Movements on Hazardous Wastes and their Disposal, 1989 and Its Protocols
- Hazardous Wastes (Management and Handling) Amendment Rules, 2003

THANK YOU

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