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The Journey of International Environmental law from 1972 to 1990

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Abstract

Before 1972 the most of the countries were not focusing on the environmental issue because most of the developed countries were busy boosting the economy. In 1972 first all the countries came to the international platform for addressing the issue of environmental problems because the environment was being polluted by the developed nation. In 1972 Stockholm conference held for the protection and preservation of the environment various suggestion has been given for the improvement of environmental problems but the objective of this conference was not achieved in the full spirit because this international instrument was not binding in the nature. After 1972 various international instruments have been signed for the protection and preservation of the environment. The only important international instruBefore 1972 the most of the countries were not focusing on the environmental issue because most of the developed countries were busy boosting the economy. In 1972 first all the countries came to the international platform for addressing the issue of environmental problems because the environment was being polluted by the developed nation. In 1972 Stockholm conference held for the protection and preservation of the environment various suggestion has been given for the improvement of environmental problems but the objective of this conference was not achieved in the full spirit because this international instrument was not binding in the nature. After 1972 various international instruments have been signed for the protection and preservation of the environment. The only important international instrument has been taken into the consideration for the sake of research. The researcher relies upon the secondary source of data and doctrinal research methodology has been taken into consideration for the sake of the studyment has been taken into the consideration for the sake of research. The researcher relies upon the secondary source of data and doctrinal research methodology has been taken into consideration for the sake of the study.

Keywords: Human Environment, Sustainable development, and just and fair use of resources

Introduction

International environmental law has rapidly changed during the last four decades, as environmental threats have become more obvious and their assessment and management have become more complex. Only a few dozen global accords existed in 1972, and various countries do not have legislation to tackle the problem of the environment. In 2011 many countries came to the international platform to solve the problems of the environment and as a result, they have entered with hundred goals and various bilateral agreements on the environmental issue. As a result nowadays every country has at least one legislation for the protection of the environment. In addition to States, a variety of other actors influence the development, implementation, and enforcement of international environmental law. "Furthermore, economic development, human rights, trade, and national security are all becoming increasingly intertwined with the environment." By analysing the various laws of international and domestic law a reference can be drawn to which of the country are more worried about the environmental concern and what are the limitations while implementing the laws.

From 1900 to 1972, 1972 to 1992, and 1992 to 2012, the evolution of international environmental law can be divided into three main periods. This article covers the years 1972 through 1990.

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During this time, major international instruments for environmental protection, such as the “Stockholm Conference of 1972, the Vienna Convention for the Protection of the Ozone Layer, 1985, the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, and the Basel Convention on the Control of Transboundary Movement of Hazardous Waste and their Disposal, 1989”, were revised.

Development of Basic Framework: From 1972-1992

This period spans from the 1972 “United Nations Conference on the Human Environment to the 1992 United Nations Conference on Environment and Development and includes numerous developments.”

The United Nations Stockholm Conference on the Human Environment: 1972

1972 was noteworthy because it was the first time governments from around the world came together to acknowledge and address environmental challenges. “The United Nations Conference on the Human Environment, which took place in Stockholm in 1972, was the first major intergovernmental meeting to address environmental issues. The Conference's preparations, the Conference itself, and the period immediately following the Conference all had long-term implications for international environmental law.” It can be observed that an important issue of environmental protection arose during the preparation of the Stockholm conference. “Developing countries were especially concerned that an international effort to protect the environment would come at the expense of their own development. Shortly before the Conference, a group of experts from governments, academia, and non-governmental organizations met in Founex, Switzerland, to discuss the conflicts and develop a conceptual framework for reconciling environmental protection and economic development. The Founex report recognized that environmental protection and economic development could and should proceed in tandem. It laid a foundation for later acceptance of the concept of sustainable development, which governments confirmed as an overarching policy twenty years later at the Rio Conference on Environment and Development ^[1].”

The “Stockholm Conference also resulted in the adoption by governments of the U.N. Stockholm Declaration on the Human Environment. This document set the stage for the further development of principles of international environmental law ^[2].” In particular, Principle 21, “which provides that “States have the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,” sets forth a basic obligation, which the International Court of Justice subsequently recognized as part of international law ^[3].”

The Stockholm Conference became the first international instrument for the intergovernmental organization that aims to protect the environment across the globe. “The United Nations Environment Programme (UNEP) in Nairobi, Kenya. The organization was not established as a United Nations specialized agency, however, and thus lacks the status of other United Nations organizations such as the United Nations Food and Agricultural Organization (FAO)

of the United Nations Educational, Scientific, and Cultural Organization (UNESCO) ^[4].” One of the major concerns in the run-up to the Rio+20 summit in August 2012 is institutional governance. Because the specialized United Nations organizations were all situated in industrialized countries, the decision to install UNEP in Kenya was exceptionally noteworthy. The UNEP's position highlighted that environmental issues afflicted all countries.

“The Stockholm Conference also heralded the emergence of non-governmental organizations and to a lesser extent other elements of the private sector, as concerned participants in the discussion of international environmental issues and the development of international environmental law. The United Nations accredited 250 nongovernmental organizations for the Stockholm Conference, which at that time was noteworthy ^[5].”

“The Stockholm Conference is linked to several important multilateral agreements, including the Convention to Prevent Marine Pollution by Dumping of Wastes and Other Matter 1972, the Convention for the Protection of World Cultural and Natural Heritage, 1972, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973” (CITES) ^[6]. These agreements were among the first to establish international environmental law. The majority of countries are signatories to the “Convention on International Trade in Endangered Species (CITES), the World Heritage Convention, and the Convention on Marine Pollution from Shipwrecks.”

There are catalytic occurrences in every sector of international law that have aided the discipline's development. The aforementioned achievements, as well as the UN Conference itself, applied a good effort for the expansion of international legislation on environmental protection during the last 20 years.

After the Stockholm Conference

International environmental agreements proliferated in the two decades following the Stockholm Conference. “There were almost 1100 international legal instruments by the end of the century that were either entirely concerned with the environment or had significant environmental provisions. This figure includes both legally binding and nonbinding agreements, such as the United Nations' Stockholm Declaration on the Human Environment ^[7].”

During this time, countries improved their ability to negotiate new accords in a short period of time, sometimes less than two years. Even the intergovernmental discussions for the “UN Framework Convention on Climate Change took only 16 months to reach an agreement. In general, implementing agreements took longer than negotiating them ^[8].”

Separate agreements for individual problems dominated international environmental agreements, each with its own system of monitoring and reporting, secretariat, and, in many cases, a separate finance facility to help countries in executing the agreement. By 1993, it had been determined that there was “treaty congestion” and that the system needed to be improved ^[9].

During this time, the idea of a framework agreement, augmented by one or more protocols to handle specific issues, arose. Soon after UNEP was created, states signed agreements to safeguard certain regional oceans under UNEP's auspices. The agreements were in the form of a framework agreement with broad principles and one or

more protocols dealing with specific areas of regional marine protection ^[10]. A state is required to join one or more of the protocols related to the framework agreement in order to become a party to it. The purpose of this method was to guarantee that the agreements had "teeth" in terms of safeguarding the regional marine. The structure of a framework agreement with different protocols was later used as the model for negotiating a variety of additional international accords, including long-range transboundary air pollution agreements. Tobacco control ^[11], climate ^[12], and ozone ^[13]. The condition that a State joins a protocol before becoming a party to the framework agreement, on the other hand, did not survive.

The era between 1972 and 1992 saw changes in the themes and focus of international environmental agreements, as detailed above. "The scope of agreements grew from those that controlled transboundary pollution to those that addressed global pollution issues like ozone depletion; from protecting specific species of wildlife to conserving ecosystems; and from controlling trade across borders to controlling activities that threatened the environment within national borders, such as protecting natural world heritage sites, wetlands, and biologically diverse areas." The new agreements' duties were more precise and intrusive on state sovereignty than prior agreements. There has never been a time when existing agreements' terms have been lessened. Rather, they've been enhanced and tweaked to improve their effectiveness.

In addition, international environmental law has progressed greatly in a number of other areas. The most important is the 1982 Law of the Sea Convention, which declares explicitly in Article 192 that governments must conserve and preserve the marine environment and lays out comprehensive actions to be followed in order to do so in future articles ^[14]. "Protection of the environment during warfare also emerged as an important subject of international law, as exemplified by the Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques, which prohibits the use of those techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party ^[15]".

International environmental law is based on scientific ambiguity about the natural system, our interactions with it, and the impact of our goods on it. Our scientific knowledge is always evolving. Adapting to advances in our scientific knowledge and understanding of environmental challenges was not a common feature of early international agreements. After 1970, more and more agreements included such a clause. "Providing for regular technical assessments by experts, simplified procedures for phasing out harmful chemicals more quickly than initially agreed, annexes and simplified procedures for adding to annexes, and regular meetings of the parties to address changes in scientific understandings were all examples of this Identifying, assessing, and managing hazards to the environment and human health is a serious task." As a result, some international accords have included provisions for risk prioritizing, monitoring, and early warning systems.

Similarly, "some of the agreements during this period were directed to conserving ecosystems, rather than only specific pollutants or sources of pollution. For example, the 1978 Great Lakes Water Quality Agreement broadened the focus of the 1972 Agreement from specific kinds of pollution to

the protection of basin-wide ecosystems in the Great Lakes ^[16]." As a result, in 1987, a Protocol was established to address groundwater pollution and pollution transport in the atmosphere as challenges critical to the Great Lakes basin ecosystem's protection ^[17].

Vienna Convention for the protection of the Ozone Layer, 1985

- The Vienna Convention for the Protection of the Ozone Layer, signed in 1985, was an international accord in which members of the United Nations agreed that protecting the stratospheric ozone layer was critical.
- To restrict the consumption and production of anthropogenic ozone-depleting chemicals (ODSs) and some hydrofluorocarbons, the "Montreal Protocol on Substances that Deplete the Ozone Layer, 1987 and its following revisions were negotiated (HFCs)"
- "Ozone depletion is produced by human-induced ODS emissions and the subsequent release of reactive halogen gases into the stratosphere, particularly chlorine and bromine."
- The "Montreal Protocol control of ODSs stimulated the development of replacement substances, firstly hydrochlorofluorocarbons (HCFCs) and then HFCs, in a number of industrial sectors. While HFCs have only a minor effect on stratospheric ozone, some HFCs are powerful greenhouse gases" (GHGs).
- "Chlorofluorocarbons (CFCs), bromine-containing halons and methyl bromide, hydrochlorofluorocarbons (HCFCs), carbon tetrachloride (CCl₄), and methyl chloroform are examples of ODSs".
- These ODSs are both long-lived (for example, CFC-12 has a lifespan of more than 100 years) and potent GHGs.
- The "Kigali Amendment to the Montreal Protocol, adopted in 2016, will reduce the production and use of some HFCs, avoiding much of the anticipated global increase and climate impact".

Basel Convention on the Control of Transboundary Movement of Hazardous Waste and their Disposal, 1989.

- The "Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, also known as the Basel Convention, was adopted on March 22, 1989, by the Conference of Plenipotentiaries in Basel, Switzerland, and entered into force in 1992."
- It is an international pact aimed at reducing hazardous waste movement between countries.
- It focuses on limiting the transfer of hazardous waste from developed to developing countries in particular.
- It establishes a framework for collaboration between the parties, including the exchange of information on issues related to the Convention's implementation.

Conclusion

According to the study, environmental customary rules and general principles such as "precautionary principles and sustainable development" are growing, but whether any of them has yet become a "normative rule" is debatable. Because of the rapid rise in awareness of global environmental issues on the "international political agenda, customary law has tended to fall behind treaty law in the

evolution of legal norms developed by the international community in response to the need to regulate activities that endanger development.” Hundreds of bilateral and multinational environmental treaties establish the rights and responsibilities of states. Many of these treaties have been negotiated by the UNEP and the UN Commission on Sustainable Development. Similar to the “Vienna Convention for the Protection of the Ozone Layer, 1985. This convention marked the beginning of international cooperation to safeguard the ozone layer. Later, in 1987, the Montreal Protocol on substances that deplete the ozone layer was adopted, and the Montreal Protocol was amended in London (1990) and Vienna (1995).” The treaty established a target for eliminating ozone-depleting compound consumption and production. The protocol recognized that all nations should not be treated equally, which was a big breakthrough. Certain countries have contributed more to ozone depletion than others, according to the agreement. “Basel Convention on Transboundary Movements of Hazardous Wastes and their Disposal, 1989.” The goal of this convention is to prevent hazardous waste transboundary movement, reduce waste creation, and restrict hazardous waste transport from developing countries to least developed countries.

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