

See discussions, stats, and author profiles for this publication at: <https://www.researchgate.net/publication/373632879>

The Principles of International Environmental Protection and Global Obligations: An Analysis Based on the Legal Context

Article in *Nature Environment and Pollution Technology* · September 2023

DOI: 10.46488/NEPT.2023.v22i03.026

CITATIONS

0

READS

31

5 authors, including:



Kudrat-E- Khuda Babu

Daffodil International University

27 PUBLICATIONS 100 CITATIONS

SEE PROFILE



The Principles of International Environmental Protection and Global Obligations: An Analysis Based on the Legal Context

Kudrat-E-Khuda Babu*†, Akanda Muhammad Jahid**, Nazia Afroz Ananna*, Arghyadeep Chakraborty*** and Moriom Akter Mou*

*Daffodil International University, Department of Law, Dhaka, Bangladesh

**The Daily Star, Dhaka, Bangladesh

***Department of Law, Sister Nivedita University, Kolkata, India

†Corresponding author: Kudrat-E-Khuda Babu; kekbabu@gmail.com

Nat. Env. & Poll. Tech.
Website: www.neptjournal.com

Received: 15-01-2023

Revised: 06-02-2023

Accepted: 09-02-2023

Key Words:

Environment
Environmental law
Pollution
Environmental protection

ABSTRACT

There is now a worldwide collective obligation, a reality, to acknowledge environmental challenges. The paper discusses and analyses the principles of international environmental laws and how those are applied in international conventions and treaties, and the effectiveness and weaknesses of those laws. This discussion mainly focuses on the principles' backdrop, what they mean, and how they have been adopted in international environmental law. Furthermore, the paper focuses on the outcomes of formulating the principles and enforcement of the legal framework. It analyses their prospect to strengthen the legal framework to achieve the objective of these principles. Besides, some recommendations have been made to strengthen these legal frameworks. It shows why it is essential to form efficient environmental platforms in present climate issues and how all nations can be brought under a common platform where they can take decisions regarding the safeguard amid the evolving environmental situations.

INTRODUCTION

Now environmental rights issues are getting more important and have appeared as a significant part of the laws related to human rights law and international environmental law. There are two types of environmental rights — substantive and procedural (Sands 1995). 'Substantive' rights ensure a healthier environment, and 'procedural' rights safeguard the environment and ensure access to justice. However, the principles followed internationally are different from the rules. Principles usually guide a certain course of action.

On the other hand, rules can impose responsibilities and are inherently binding (Bodansky et al. 2007). The principals refer to a broader set of moral norms than commitments. The principles never specify any particular actions, but all activities are done in light of the principles, even when formulating laws or rules. Though many local and international organizations deal with environmental issues, no unique institution will implement the policies as a responsible authority. The United Nations Environment Programme (UNEP) sets environment-related regulations and policies. Environmental laws have undergone various changes, and at present, those are very different from the traditional conception. It is also important in other areas, such as human rights, economic

rights, environmental preservation, and state actions and political interests (Bodansky et al. 2007). The United Nations Environment Programme (UNEP) has been trying to improve international collaboration by implementing environmental regulations and formulating required recommendations. Besides, the organization takes steps to formulate a permanent mechanism for the necessary emergency action to protect the environment. At the same time, it provides the necessary directions in light of UN policy. It also instructed the member states to speed up the procedure to formulate related laws. It insisted they adopt the resolutions of other environmental institutions, including the United Nations Environment Programme and the Commission of Sustainable Development (CSD). Due to increasing industrialization, the ecology and environment are in a major global crisis. International Environmental Law (IEL) works to strengthen the efforts to reduce pollution and natural resources within the framework of sustainable development (Rolston 1988). The member states have created a set of laws to deal with the problems raised in the states or between states. The law addresses the issues regarding population, biodiversity, and climate change. It also deals with many other issues, including air, land, sea, transboundary water pollution, ozone depletion and pollution related to toxic and hazardous

substances, conservation of marine resources, desertification, and nuclear damages (Jardins 2001). Some principles guide this law. Those are the precautionary principle, prevention principle, sustainable development, polluter pay principle, integration principle, and public participation principle.

MATERIALS AND METHODS

During the study, both primary and secondary data were used in this paper. All the relevant data and information from the existing paper were collected and used from primary and secondary sources. The secondary data sources include books, articles, different national and international law reports, Acts, etc. The information from books, journals, booklets, proceedings, newsletters, souvenirs, and consultancy reports available in Daffodil International University, Bangladesh libraries were compiled chronologically to complete successfully. The necessary supports and figures were taken from the *Daily Star*, *Forbes*, and the *Law Column*. The selected data (collected from the selected stations between 2020 and September 2021) reveals that there is now a worldwide collective obligation, a reality, to acknowledge environmental challenges. And that is why it is essential to form efficient environmental platforms in the present climates related issues.

Moreover, right now, all nations should be brought under a common platform where they can take decisions jointly regarding safeguarding amid the evolving environmental situations. The codes of international environmental laws and how those are applied in international conventions and treaties. This paper has also focused on the effectiveness and weaknesses of those laws.

RESULTS AND DISCUSSION

Precautionary Principle

The precautionary principles of international environmental laws aim to prevent environmental issues before the inception of any new crisis. It focuses on preventing harm rather than managing it after it happens. Here is a moral word that prevention is better than cure. The precautionary principles have been formulated from this perspective. So the precautionary principles always analyze the future necessities, possible harms, and threats that can lead to an environmental crisis and suggest taking preventive measures to stop the crisis. The precautionary principle supports initiating prior steps before complete scientific proof of a risk. The action should not be delayed simply because of lacking full scientific information. Environmentalists and policymakers have started to rethink their approach to addressing uncertainties following DDT

(dichlorodiphenyltrichloroethane) in the 1960s (Alam et al. 2013). Thanks to the event, environmentalists and policymakers started formulating precautionary principles as a reaction to the limitations of policies based on a notion of “Assimilative Capacity” during the 1970s. *i.e.*, humans and the environment can tolerate a certain amount of contamination or disturbance, which can be calculated and controlled”.

In the 1970s, the United States also relegalized the emergence of the principle. However, the term has not been used. The essence of the precautionary principle can be found in several laws, such as the US Federal Food, Drug, and Cosmetic Act of 1958 (Section 409), which outlawed any food additive found to induce cancer regardless of the dose taken (David 1990). The concept of the precautionary principle has been considered for international law and policy following a proposal from environmentalists and the governments of European countries. The 1982 United Nations World Charter for Nature stated that when “potential adverse effects of an activity are not fully understood, it should not proceed” In the Convention for the Protection of the Ozone Layer (Vienna Convention on March 25, 1985) 20 countries. The European Commission adopted a charter on protecting the ozone layer, the first multilateral treaty to explicitly reference precaution. The convention’s success was due largely to its precautionary nature, as there was still no scientific certainty on the causes and impacts of ozone depletion at the beginning. Later, the Vienna Convention protocol was adopted in Montreal in 1987. In 1992, the representatives of nations came up with Agenda 21 during the Earth Summit in Rio de Janeiro, Brazil. Chapter 17 thereof refers to the preventive concept, *viz*:

“A preventive and anticipatory rather than a reactive approach is necessary to prevent marine environment degradation. This requires, among other things, the adoption of precautionary measures, environmental impact assessments, clean production techniques, recycling, wastes audits and minimization, construction, and improvement of sewage treatment facilities, quality management criteria for handling hazardous substances, and a comprehensive approach to damaging impact from air, land, and water” (Agenda 21, Chap. 17).

Chapter 17 is not only a clear endorsement of the precautionary principle but also relates the concept of prevention to several specific measures concerning the environment of oceans, seas, and marine. Due to adopting the Rio Declaration at the United Nations Conference on Environment and Development (UNCED) in 1992, “the precautionary concept has become essential to international

environmental policy.” Principle, 15 of the Rio Declaration provides hence:

“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 to postpone cost-effective measures to prevent environmental degradation.” (Rio Declaration on Environment and Development 1992)

Besides, the Convention on Biological Diversity also provided for the precautionary concept. It was later adopted at the Earth Summit in 1992. The Earth Summit also opened the opportunity to form international law by converging the precautionary principle and the climate change issue (Gillespie 1997). The precautionary principle has been acknowledged at the international level law after it was adopted in the United Nations Framework Convention on Climate Change (UNFCCC) under Article 3 at the summit in Rio de Janeiro. In the Preamble of the Kyoto Protocol in 1997, an article reference was quoted as “Being guided by Article 3 of the Convention”. The stakeholders also endorsed the precautionary principle in the UNFCCC.

Firstly, the decision to endorse the precautionary principle was fruitful and worked flawlessly for the ozone conventions and CBD; but it could not impact the climate change legal frameworks. A few factors in the results will be discussed later by comparing the ozone and climate change conventions (Nanda & Pring 2003). The major difference between the ozone conventions and Kyoto Protocol is that most nations have ratified the first. Still, top greenhouse emission nations, including the United States, did not rat the latter. And Canada also later withdraw from the protocol. This is evidence that all nations have agreed to tackle the ozone problem, but some do not agree with the climate change convention. The biggest greenhouse emission nations are not making any commitment or effort to resolve the issues causing climate change and its impact.

Secondly, stakeholders agree to respond quickly to new scientific information in the Montreal Protocol and expedite the necessary chemical reduction. After such coordination, this protocol automatically applies to all countries approved.

On the other hand, to reduce admission by a certain period, the Kyoto Protocol does not discourage non-compliance by its parties. Through the comparison, it is evident that the ozone conventions are more successful when the parties try to reduce ozone depletion as per the limit of their level. However, in the Kyoto Protocol, the initiative was taken against the non-compliance parties.

Thirdly, the Montreal Protocol settles any dispute through the Non-Compliance procedure, which creates a multilateral

mechanism to build confidence through non-confrontation discussion instead of adjudication. It helps parties pursue an amicable solution to the problem. Meanwhile, there is a lack of enforcement or cooperation between parties to settle any dispute under the climate change conventions. Here we can mention a couple of examples of such incidents. The United Kingdom and Argentina have a long dispute over territories, and there was an application with the Kyoto Protocol.

Meanwhile, regarding the territorial dispute between Hong Kong and Macao, China said they do not want to involve in the protocol. The next issues are monetary advancement. As there are substitutions to CFC, the matter is evidence that ozone conventions are much more successful. Now industries are producing alternatives to CFCs. As a result, the economy is boosting. Mass production for CFC replacement increases the industry’s income, essential for a nation’s economic growth.

On the other hand, implementing the Kyoto Protocol is comparatively much more expensive. Implementing the Kyoto Protocol requires reducing the main energy sources, such as coal and petroleum, to reduce greenhouse gas emissions. Former US President Donald Trump did not even acknowledge the existence of the greenhouse gas effect and had greatly supported the energy industries. Finally, the application of precautionary measures to international legal instruments is now widely seen, and the Climate Change Convention is losing its usefulness due to the massive success of the Ozone Convention. The reasons for this have already been discussed. Still, recognizing the issue in international environmental law and applying this principle in resolving any new problem is crucial.

Polluter Pays Principle

Polluter Pays policy has dual liability. It includes provisions to compensate those affected by pollution and guidelines for restoring environmental damage. Liability and compensation for pollution are the main sources behind the formulation of this policy. As a result, this policy has been established as sustainable development and precautionary policy, as well as gaining the status of traditional international law. The “polluter pay” principles were first incorporated into policies 21 and 22 of the Stockholm Declaration 1973. Following that, various requirements for implementing the European Charter on Environment and Health (1989) and the Single European Act 1986 were made (Wolf & Neil 2003). The principles of “polluter pay --Principle 16 -- have been envisaged in the United Nations Conference on the Environment and Development, 1992. 1992 Rio Declaration Principle 16 states: “National authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach

that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.”

Under the “Pollution Control Policy,” The polluter must be responsible for limiting, controlling, and cleaning up the pollution’s effects. And forces them to bear the cost of pollution. The main purpose of this policy is to allocate costs and internalize those costs. Due to the

Accountability liability under this policy, this policy has acquired prominence in national and international environmental policies, and it has been referred to as the legislation of several countries (Caldwell 1990). The Organization for Economic Cooperation and Development (OECD) established the “polluter pays” principle to avoid public authorities from subsidizing private enterprises’ pollution control expenditures (Reid 1997). Giving utmost importance to the “polluter pays principle,” This idea should be adopted to determine the cost of pollution as a measure to avoid and regulate pollution, according to the OECD Council (Bullard & Jonson 2000). As per the principle, the product producer who pollutes the environment will be responsible for preventing pollution. These costs are included directly in the property. The government and other agencies introduced the policy to introduce policies and procedures for environmental protection. Initially, the “Pollution Policy” was not part of the law in India. This policy was later adopted as an element of law in the light of the directive of the “Indian Council for Enviro-Legal Action v. Union of India.” In that instruction, the court said that the polluting industries were “fully responsible for the damage caused to them by the villagers, soil, and groundwater in the affected area and therefore they are obliged to take all necessary measures to remove silt and other pollutants lying in the affected area.” Another case, “Vellore Citizens Welfare Forum v. Union of India,” found that “Pollution Policy” plays an important role in sustainable and environmental development. In light of this policy, the court, in this case, stated that the polluter must not only compensate the victims of pollution but also bear full responsibility for the recovery of environmental damage (Sadleir 2002). At present, this policy is considered part of the traditional international law. It has become an important part of the law in India, which plays an important role in protecting the environment for sustainable development.

Prevention Principle

The prevention principle directs action at an early stage to protect the environment. The essence of this principle is that prevention is better than cure. If something is damaged, restoring it to its original form is impossible. This principle has been considered since that position. So,

there is no question of repairing the damage after it has occurred. Not even to prevent such losses. The Prevention Policy recommends early action to protect the environment. Although this principle is similar to the precautionary principle, there are several differences between them. Its main difference with precautionary principles is that precautionary principle primarily identifies the causes of environmental damage through physical analysis and deals with causes for which evidence has not yet been found. Still, the prevention principle directly takes the action of being responsible for the destruction of the environment. In 1967, 120,000 tons of oil spilled from a large oil tanker into the English Channel, which led to the environmental catastrophe known as the “Torre Canyon” catastrophe. The incident was highlighted in the context of the importance of this policy, which draws the international community’s attention to stress the need for legal instruments on the prevention principle. The principle of prevention in the context of the

The environment was introduced in principle 21 of the Stockholm Declaration on the Human Environment in 1972, which stated:

States have . . . the sovereign right to exploit their resources . . . and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or areas beyond the limits of national jurisdiction (Faruque 2017).

The International Convention for the Prevention of Pollution from Ships in 1973 (MARPOL) was formed on 10 1973 after 154 state parties signed the convention on February 17, 1973 (Mitsuo et al. 2006). It came into effect on October 2, 1983. Since its formation, MARPOL has appeared as the most comprehensive and operative international legal framework for preventing pollution caused by oil or other harmful substances from the vessel and minimizing the accidental discharge of such substances. MARPOL empowers the states to deal with jurisdiction, enforcement, and inspection to prevent pollution by ships. As per Article 4 of MARPOL, any violation is punishable. The punishment might be either under the law of that Party or the existing law of the concerned state.

Article 5 refers to the inspection of ships and special rules regarding the inspection of ships to ensure that no contamination occurs through any vessel. At the same time, Article 5 empowers the relevant state and port authorities to inspect, detain and prosecute ships concerned with environmental pollution. It also empowered the authorities concerned to demand the certificates, and in case of failing to produce the certificates, they can withhold or suspend the permission of the respective vessel. Under the requirements

of MARPOL, a valid certificate is mandatory for the ship. However, the flag States and port States could not delay their process unnecessarily. If they make any delay without logical reasons and if the goods of the vessels are damaged, then the state parties will have to compensate for the loss of the vessel authorities under articles 4, 5, or 6. The MARPOL always contains the movement of cargo oil and its residues, and any member state can inspect the vessel at any time. Apart from that, six Annexes under MARPOL lay out the technical regulation for operational pollution.

Of them, Annexes I prevent pollution caused by oil spilled from the vessel and prescribe the operational measures to prevent accidental discharge by requiring ships whether they have the capacity and equipment and plans to check the oil spills. Annexes II empowers the regulator to control pollution by the liquid substance of the ships. Annex III prescribes to prevent pollution by harmful substances in package form. However, Annex IV prevents pollution by sewage from the ship as discharging substances is prohibited if any vessel has no permitted sewage treatment plan. Annex V prescribes to prevent pollution by garbage produced by ships. And lastly, Annex IV empowers the regulatory authority to prevent air pollution from ships by curbing nitrogen and sulfur oxide emissions. The provisions of MARPOL have been formulated in line with the prevention principles. It introduces inspection and enforcement mechanisms that can also be applied to the ships of a non-member state.

Another relevant convention that applies the prevention principle is “*The Basel Convention on the control of the transboundary movement of hazardous wastes*” (Basel Convention). At first, 116 countries adopted the Convention on 22 March 1989, which came into effect on 5 May 1992 (Brine & Boyle 2002). Right now, 186 parties are a member of the convention. The US is the only developed country that has not ratified it yet. The main objectives of the Convention are:

- (i) Containing transboundary movement of hazardous waste to a minimum level for ensuring sound environmental management
- (ii) Treating hazardous wastes and other wastes which would be the possible nearest place from their source in an environmentally sound manner
- (iii) Minimizing the generation of hazardous waste and other waste

The Convention regulates the transboundary movement of ships carrying hazardous and other wastes through the “Prior Informed Consent” procedure (shipments made without consent are illegal). Unless there is no special agreement, the shipment between non-parties is illegal. As per the Convention, the parties must properly manage and

dispose of hazardous and other wastes. We can explain the “prior informed consent” method in a much easier way:

- i. The exporting state must notify about the transit and information about importing state and waste.
- ii. Information on the impact of the ship’s underlying waste on human health and the environment must be clearly stated.
- iii. Based on that information, the importer state may consent, reject the application, or ask for more information.
- iv. The importing state may take steps to ban shipping without prior written permission.
- v. Transboundary movement of hazardous waste without consent is illegal and punishable under the convention.
- vi. In the event of any breach of the Convention, the determination shall be made following the national law of the Contracting State.

Meanwhile, to deal with liability caused by damages of the transboundary movement of hazardous waste, the Basel Protocol on Liability and Compensation (the Basel Protocol) was adopted on December 10, 1999. Under Article 5 of the protocol, the responsible state or the authorities of the vessel would be fined for damages. Currently, there are only 13 signatories and 11 parties to the protocol. The wastes that the Basel Convention generally works to control are- biomedical and healthcare waste, used oil, used lead-acid batteries, lithium batteries, nickel-cadmium batteries, persistent organic pollutant wastes, chemicals, and pesticides in the environment. Waste, etc. It is important to see the outcome of both conventions, including the policy of prevention, whether their existence and implementation reach the purpose, and the policy of prevention in general. Statistics show that the amount of oil entering the sea from other seas has decreased for MARPOL. The annual number of spills in the 1970s was 24.5, which reduced to 1.7 per year from 2010 to 2016 (Faruque 2017). Even 20 years later, toxic waste colonialism is still problematic for the Basel Conference because of the growing hazardous waste and severe economic pressures. Although both Marpol and Basel Conventions apply a policy of resistance, Marpol is still considered more successful than the Basel Convention regarding effectiveness and usefulness. However, the Basel Convention cannot be called a complete failure, as technological advances and human demand have increased the amount of hazardous waste, especially in developing countries always looking for convenient and inexpensive ways to dispose of their waste. Several steps can be taken to make Marpole more effective and the Basel Convention more timely and robust.

First, persuading the United States to ratify the Basel Convention is crucial. Because the United States is one of

the top producers of hazardous waste and the United States has the largest fleet in the world. Considering these aspects, U.S. involvement can encourage compliance with the Convention. And monitoring the transboundary movement of hazardous wastes in the open international sea could be further strengthened.

Second, there is a need for developing countries to develop technology, implement teams, and provide financial assistance in accordance with the principles of cooperation described in the implementation of both conventions. No developing country on the African continent, for example, is receiving the assistance it deserves to stop the dumping of hazardous waste in its territory by foreign ships, even though they are both members of the conference. In this case, developed countries must come forward to assist. In this case, active action by the United Nations is very important. Countries not abiding by these conventions should be barred from various UN benefits as punishment. We must lobby for heavier approvals, such as economic sanctions, against countries responsible for spreading toxic oil. If the United Nations can impose such sanctions on Iran for its nuclear program, the same action should be taken against environmentalist terrorists.

Finally, the “Prevention Policy” should be adopted and implemented in both conventions to prevent environmental disasters. Although both conventions have positive and negative consequences, the existence and application of both conventions and the special work under both conventions have served as the most important international legal instrument to prevent environmental catastrophes.

Principle of Preventive Action

The duty to protect the environment and the idea of pollution prevention are not the same thing (Thornton & Beckwith 2004). This law empowers the state to take steps against pollution within its jurisdiction. To avoid substantial or irreversible damage to the environment and even the ecosystem, all dangerous compounds must be disposed of in quantities that exceed the capacity for environmental deterioration. Steps need to be taken at an early stage to reduce the rate of contamination rather than waiting for the subsequent recovery of contaminated areas. Out of such necessity, the States have developed and approved this policy to acquire information to conduct ‘impact assessments’ on the environment.

The preventative principles allow the government to act effectively to reduce waste. The government can create the required plans and policies to educate the general public and promote pollution avoidance practices. This principle restricts the entry of pollutants, including treaties, into international environmental law (Joyner 1986).

Resistance to the environment is considered a ‘golden rule’ for both environmental and economic reasons. Once an environmental injury occurs, it cannot be cured. Extinction of any animal or plant, erosion issues, dumping, or pollutant dumping in the river can all result in irreversible situations that cannot be reversed. Even in such a situation, measures should be taken to protect the environment as much as possible and to minimize the risk as much as possible. Steps must be taken to curb rising costs, increase fines, and civic liability to curb pollution.

Principle of Common but Differentiated Responsibility

The “Common Differentiated Responsibility” concept has given a new meaning to a long-standing practice. Certain countries must contribute more than others to provide global public goods. The policy calls for more aggressive actions to restore global environmental damage. It has also been pushed to be recognized as a traditional principle of international law. The notion of humankind’s shared legacy has been distinguished from the principle of broad concern (Opschoor & Hans 1989).

The policy relates to the concept of the general responsibility of the state. However, this obligation is again distinct in light of historical variances, varied social and economic advancement dimensions, and similar concerns based on different sources. The concept of “Common Concern of Humankind,” on the other hand, is based on a treaty. “Change in the earth’s climate and its detrimental repercussions are a common concern of humankind,” the United Nations Framework Convention on Climate Change (UNFCCC) stated in 1992. Furthermore, the 1992 Biodiversity Convention said that “biodiversity conservation is a common concern of humanity.”

“Principles of common but different responsibilities” have been formulated in international environmental materials. But all countries are more or less responsible for global environmental damage. Developed and developing countries must actively prevent and reduce global pollution and take responsibility. In addition, developing countries need to help protect the environment. The CBDR policy has been formulated to contain a “soft” international legal policy. It became an important element of international law in the Framework Convention on Climate Change of the Rio Declaration on Environment and Development (1992).

Principle of Cooperation

Principle 7 of the 1992 Rio Declaration, mentions that “States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the

Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge their responsibility in the international pursuit of sustainable development because of the pressures their societies place on the global environment and the technologies and financial resources they command."

The "good neighbor policy" states that the responsibility for ensuring that a state does not harm the environment of a neighboring state is vested in the state. The policy of international cooperation is considered to be their duty to restrict the activities of other states within the territory of a particular state. This policy applies to most "*sic utere tuo, et alienum non laedas*" (use your property so that it does not harm others).

The Sustainable Development Principle

Sustainable development refers to two main objectives. These are environmental protection and economic development. Regarding sustainable development, economic development can also be termed a means of alleviating poverty (Kiss & Shelton 2004). In the case of economic development, besides development, the needs of the people of a country should be given importance. Especially those who are in or below the poverty line. However, the present generation constantly struggles for economic development and poverty alleviation. As a result of that development for poverty alleviation, it will not harm the environment. Although economic development is recognized as a means of sustainable development in poverty alleviation, it limits such development based on environmental protection for present and future generations. This policy refers to the balance between environmental protection and economic development. According to this policy, first recognized in the Stockholm Declaration, the state must continue economic development with environmental protection to provide maximum benefits to the people.

According to the policy, states have a sovereign right to use their natural resources. Still, they must ensure that those resources do not adversely affect the environment of neighboring states. The "World Charter for Nature" is an important document in environmental protection in economic development, which has been created to guide development. It emphasizes economic development as well as specific policies for environmental protection. Subsequently, the Rio Declaration emphasizes the principles of the Stockholm Declaration. It says states must exercise caution in balancing economic development and environmental protection. In 1985, the policy of sustainable development of nature and conservation of natural resources was widely discussed

and gained importance in the ASEAN Treaty. The main purpose of this policy is to preserve wild plants, animals, and renewable resources. At the same time, they were protecting ecosystems, habitats, and endangered species and ensuring sustainable harvesting use.

The preamble to the treaty provides guidelines for establishing interrelationships between conservation and socio-economic development. In this case, conservation is important to ensure the sustainability of development. And socio-economic development is needed for that conservation. The agreement contains 8 chapters, including 35 articles, which assure the parties to identify the interdependence of natural resources to achieve a balanced ecosystem. According to this policy, contractual parties must implement the sustainable development policy. Under this policy, the contracting parties will be responsible for any damage to the environment. They will also focus on environmental planning measures, establishing scientific research, and public participation and cooperation among members. But the unfortunate thing is that even though this agreement was considered ahead of its time, it has not been implemented so far. It has ratified only 3 of the 6 signatory countries. The main reason for the non-implementation of this agreement is that none of the signatory members has formulated this agreement. Another organization drafted the treaty, which made ASEAN member states reluctant to ratify the convention.

In the case of Malaysia, the Sustainable Development Policy and the Environmental Quality Control Act 1974 are followed. According to this policy, any scheduled activities such as a large development project, logging, excavation, mining, and other works must be approved by completing an "Environmental Impact Assessment (EIA)" before commencement. The report will contain detailed information on the proposed project's environmental impact, such as identification, forecasting, evaluation, and communication, and details of mitigation measures before project approval and implementation. Although the EIA report is mandatory, the application and environmental impact of this policy in the Malaysian context are still questionable because, in violation of this policy, uncontrolled and destructive bauxite mining activities are taking place in Pahang, where there are rare earth plants. Yet these two events created discussions where the environmental impact was evident. Except for the two cases mentioned so far, there are no major/serious problems with other projects and development in Malaysia.

United Nations Conference on Sustainable Development (UNCSD), Rio 2012. This is the third international conference on sustainable development aimed at reconciling the economic and environmental goals of the global

community (Shelton 2000). The United Nations Department of Economic and Social Affairs organized the conference with the participation of 192 member states, including 57 heads of state and 31 heads of government (Shelton 2000). Besides that, representatives from private sector companies, NGOs, and other groups also joined the conference. It was a high-level conference where heads of state, government, or other representatives came together to create a political document to formulate a global environmental policy. As a result of this conference, the heads of 192 countries stressed the need for sustainable development in a non-binding declaration.

In conclusion, the importance of sustainable development policy in environmental law is undeniable and immeasurable. This policy is the most important in the current era of technology development, resources, and limited resources. People's desire for power never ends, but a clear understanding is needed that development without sustainability will lead to our destruction.

CONCLUSION

It is now universally acknowledged that the world's challenges can be addressed through cooperation. Acid rain, ozone depletion, toxic waste poisoning, and biodiversity loss are among the world's daily difficulties. It is important to address these challenges. Neighboring states can also be affected by the polluting activities of a state. And it is in such a situation that the need for various international policies arises, through which the current problems can be managed, and the incidence of such pollution can be reduced in the future.

However, crafting human rules to protect human activities is critical while maintaining a healthy connection with nature's universal laws. The international community has implemented several environmental policies under various international laws to address and prevent environmental concerns. These measures have considerably impacted the regulatory framework that governs the environment. These policies are made up of a variety of laws or sources at the international or national level.

So it is often difficult to identify the parameters of this policy. So while these may apply to a specific area or region, they may not be suitable for another area. As a result, there isn't a single policy that everyone agrees on. However, most of these policies have changed and evolved, and most are almost the same in the country's legal system. The general principles of these agreements are similar. Decisions and conventions, declarations, or statements of multilateral environmental agreements often result in the creation of many international laws. For example, the precautionary and polluter pays principles were established due to the Rio

Declaration of 1992. Different international law principles have been incorporated into the national laws of different countries in terms of necessity.

Nevertheless, regular checks are required to amend existing laws to ensure environmental justice. It is very important that the world now recognizes the biggest and most real danger of environmental catastrophe. This danger is imminent if the necessary steps are not already taken to protect the environment. Let's look at the past world and consider the importance of material importance. We seem to go through a more difficult path to get universal recognition of these environmental protection policies. For example, we can mention that disasters like big floods are due to the greenhouse effect. Everything is already too late. World leaders, NGOs, and other concerned stakeholders must firmly work hard from now on. They need to analyze in detail that while some conventions effectively protect the environment, many others are not. They have to take steps to make the policies more effective.

REFERENCES

- Alam, S. and Hossain, B.M.J. 2013. Handbook of International Environmental Law. Routledge, London.
- Bodansky, D., Brunnee, J.B. and Hey, E. 2007. The Oxford Handbook of International Environmental Law. Oxford University Press, Oxford.
- Brine, P. and Boyle, A. 2002. International Law and the Environment. Oxford University Press, Oxford.
- Bullard, R.D. and Jonson, G.S. 2000. Environmental justice: Grassroots activism and its impacts on public policy discussion making. *J. Social Iss.*, 56(3): 555-578.
- Caldwell, L.K. 1990. International Environmental Policy. Duke University Press, North Carolina.
- David, A. 1990. Regulating the international hazardous waste trade: A proposed global solution. *J. Transnatl.*, 1(1): 801-845.
- Faruque, A.A. 2017. Environmental Law: Global and Bangladesh Context. New Warsi Book Corporation, Dhaka.
- Gillespie, A. 1997. International Environmental Law, Policy and Ethics. Oxford University Press, Oxford.
- Jardins, J.R.D. 2001. Environmental Ethics. An Introduction to Environmental Philosophy. Fifth Edition. Cengage, Belmont, CA .
- Joyner, C.C. 1986. Legal implications of the concept of the common heritage of mankind. *Int. Comp. Law Quat.*, 35(1): 192-95.
- Kiss, W. and Shelton, D. 2004. A Guide to International Environmental Law. Third Edition. Transnational Publications, NY.
- Mitsuo, M., Thomas, S.J. and Petors, C.M. 2006. The World Trade Organization: Law, Practice, and Policy. Oxford University Press, Oxford.
- Nanda, V.P. and Pring, G. 2003. International Environmental Law Policy for the 21st Century. Transnational Publishers, New York.
- Opschoor, J.B. and Hans, B.V. 1989. Economic Instruments for Environmental Protection. OECD, Paris.
- Reid, C.T. 1997. Environmental Law in Scotland. Sweet and Maxwell, Edinburgh.
- Rio Declaration on Environment and Development. 1992. Report of the United Nations Conference On Environment and Development. https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcom_pact/A_CONF.151_26_Vol.I_Declaration.pdf (Accessed 11 October 2021).

- Rolston, H. 1988. *Environmental Ethics*. Temple University Press, Philadelphia.
- Sadleir, A.N.D. 2002. *Environmental Principles: From Political Slogans to Legal Rules*. Oxford University Press, Oxford.
- Sands, P. 1995. *Liability for Environmental Damage*. In Sun, L. and Kurukulasuriya, L. (eds), *UNEP's New Way Forward: Environmental Law and Sustainable Development*, UNEP, Nairobi, pp. 73-95.
- Shelton, D. 2000 *Environmental Rights*. Oxford University Press, Oxford.
- Thornton, J. and Beckwith, G. 2004. *Environmental Law*. London: Sweet & Maxwell.
- Wolf, S. and Neil, S. 2003. *Environmental Law*. Cavendish Publishing Limited, London.