

*Is Existing International Environmental Law Adequate in
Addressing the Challenge of Global Climate Change?*

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IS EXISTING INTERNATIONAL ENVIRONMENTAL LAW ADEQUATE IN ADDRESSING THE CHALLENGE OF GLOBAL CLIMATE CHANGE?

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Abstract

Human beings are just one component of the wider natural systems (the environment) that combine to create and sustain life on Earth. These natural systems are the very infrastructure and resources of human civilization. Global climate change poses the most immediate and far reaching threat to their functioning, and already adversely affects the environment, individuals and populations around the world through: increased incidents and intensity of natural disasters such as hurricanes; tornados; flooding; enormous changes in precipitation patterns and; massive alterations of habitats and ecosystems such as coral reefs, mangroves and salt marches.

As we all have the right to live in a safe, secure, healthy, clean and sustainable environment if such rights are affected by human induced activities that result in climate change, it will negatively impact on a range of other fundamental human rights including among others: the right to self-determination; the right to take part in cultural life; the right to use and enjoy property; the right to social security; the right to an adequate standard of living satisfactory for health and well-being; the right to clean, potable or fresh water; the right to the highest attainable standard of physical and mental health; the right to development and even; the right to life itself.

The reality is international environmental law does not force any legal obligation on present generations to take the instant steps needed to protect future generations from the risks of climate change. The current rules of the 1992 UN Framework Convention on Climate Change and the 1997 Kyoto Protocol, the only treaties in force that address climate change explicitly, are not adequate to mitigate climate change. General principles of customary international environmental law are unlikely to provide a basis for effective legal action against States that refuse to cooperate in addressing climate change.

The problem is in establishing that unrestrained GHG emissions are, in fact, a violation of existing international law should be solved immediately otherwise the whole world community will face a dangerous situation which we can't even imagine. Most importantly, new mechanisms with new laws are an immediate demand of the international community.




Is Existing International Environmental Law Adequate in Addressing the Challenge of Global Climate Change?

Global Climate Change ?

- Climate is changing.
- Earth is warming up.
- Overwhelming scientific consensus that it is happening, and human induced.
- Chances for ecosystems to adapt naturally are diminishing.
- Greatest threats facing the planet.

● Earth is warmer today around the world than at any time during the past 1000 years, and the warmest years of the previous century have occurred within the past decade.

(Global Climate Change Research Explorer)



Effects of Global Climate Change

Extreme weather
Volcanoes/Earthquakes
Acidification
Oxygen depletion
Sea level rise
Ocean temperature rise
Food supply
Migration and conflict

Sea Level Rise

(One of the most significant impacts of Global Warming)

- As water gets warmer, it takes up more space. Each drop of water only expands by a little bit, but when you multiply this expansion over the entire depth of the ocean, it all adds up and causes sea levels to rise. Sea levels are also rising because melting glaciers and ice sheets are adding more water to the oceans.
- Current sea-level rise potentially impacts human populations (e.g., those living in coastal regions and on islands) and the natural environment.

Main factors contributed to observed sea level rise:

- The first is thermal expansion: as ocean water warms, it expands.
- The second is from the contribution of land-based ice due to increased melting.

Evidence of Sea Level Rise

- Over the past 100 years, the average sea level around the world rose by nearly 7 inches.
- If people keep adding greenhouse gases to the atmosphere, the average sea level around the world by the end of this century (the year 2099) could be anywhere from 7 to 23 inches higher than it was in 1990.
- Sea levels could rise even more if the big ice sheets in Greenland and Antarctica melt faster.

Sea Level Rise and its Impact on Small Island and Low Lying Developing Countries

- Although climate change is a global phenomenon, its consequences will not be evenly distributed.
- Developing countries and small island nations in particular will be the first and hardest hit.
- For small coastal states and particularly small island states in the Caribbean, Pacific and Indian oceans (Holland, Belgium, Congo, Bangladesh, Maldives, Seychelles, Virgin Islands, Bermuda), the dangers of climate change are immediate and threaten their very existence.

Why?

- Small size
- Remoteness
- Geographical dispersion
- Vulnerability to natural disasters
- Fragile ecosystems
- Low Lying coasts
- Constraints on transportation and communication and for many limited freshwater supply, mean that they are extremely vulnerable to even the smallest changes to the global climate.



Bangladesh

- Bangladesh is a disaster prone country.
- Bangladesh's geographical vulnerability lies in the fact that it is an exceedingly flat, low lying, alluvial plain covered by over 230 rivers and rivulets with approximately 710 kilometers of exposed coastline along the Bay of Bengal.
- As a result of its geography, Bangladesh frequently suffers from devastating floods, cyclones and storm surges, tornadoes, riverbank erosion and drought as well as constituting a very high-risk location for devastating seismic activity.
- Sea level rise will cause river bank erosion, salinity intrusion, flood, damage to infrastructures, crop failure, destruction of fisheries, loss of biodiversity etc. along this coast.
- World Bank (2000) projection showed 10 cm, 25 cm and 1 m rise in sea level by 2020, 2050 and 2100 which will affect 2%, 4% and 17.5% of the total land mass respectively.



Maldives

- As the flattest country on earth, the Republic of Maldives is extremely vulnerable to rising sea levels and faces the very real possibility that the majority of its land area will be underwater by the end of this century. Sea level rise is likely to worsen existing environmental stresses in the Maldives, such as periodic flooding from storm surges, and a scarcity of freshwater for drinking and other purposes.
- Given mid-level scenarios for global warming emissions, the Maldives is projected to experience sea level rise on the order of 1.5 feet (half a meter)—and to lose some 77 percent of its land area—by around the year 2100. If sea level were instead to rise by 3 feet (1 meter), the Maldives could be almost completely inundated by about 2085.
- The Maldivian government has identified many potential strategies for adapting to rising seas, but is also considering relocating its people to a new homeland.



- More than a third of the world's people live within 62 miles of a shoreline. Over the coming decades, as sea levels rise, climate change experts predict that many of the world's largest cities, including Miami and New York, will be increasingly vulnerable to coastal flooding.
- But Bangladeshis don't have to wait decades for a preview of a future transformed by rising seas. From their vantage point on the Bay of Bengal, they are already facing what it's like to live in an overpopulated and climate-changed world. They've watched sea levels rise, salinity infect their coastal aquifers, river flooding become more destructive, and cyclones batter their coast with increasing intensity—all changes associated with disruptions in the global climate. (National Geographic Magazine, April 2013 issue)

Existing International Environmental Law

- The current rules of the 1992 UN Framework Convention on Climate Change and
- The 1997 Kyoto Protocol, the only treaties in force that address climate change explicitly.



Is it Adequate?

Existing international environmental law is not adequate to address the challenges of global climate change.

- o First, international environmental law does not impose any legal obligation on present generations to take the immediate steps needed to protect future generations from the risks of climate change.
- o Second, general principles of customary international environmental law are unlikely to provide a basis for effective legal action against States that refuse to cooperate in addressing climate change.
- o Third, general principles of environmental law derived from the world's different legal systems and addressed to climate are likely to be viewed as too exceptional or inchoate to serve either present or future generations effectively against the hazards of climate change.
- o Finally, Kyoto Protocol and UN framework Convention only treaties.

Present Scenario

- At the 2012 Doha Climate Change talks, parties to the Kyoto Protocol agreed to a second commitment period of emissions reductions from 1 January 2013 to 31 December 2020, which takes the form of an amendment to the Protocol.

- The 37 countries with binding targets in the second commitment period are Australia, all members of the European Union, Belarus, Croatia, Iceland, Kazakhstan, Norway, Switzerland, and Ukraine.

- However, a last minute objection at the conference by Russia, Ukraine, Belarus and Kazakhstan indicates that they will likely withdraw from the Protocol or not ratify the Protocol amendment. Collectively, these countries will reduce their emissions 18% below their 1990 level between 2013-2020.

- The targets may be strengthened by 2014. The emissions targets specified in the second commitment period will apply to about 15% of the world's greenhouse gas emissions. Several Annex I Parties who participated in Kyoto's first round (2008-2012) have not taken on new targets in the second commitment period, and they are Japan, New Zealand, and Russia. (Cont.)

Frustration

- o The U.S. signed the Protocol, but did not ratify it.
- o The Canadian government announced its withdrawal from the Kyoto Protocol on 12 December 2011, effective 15 December 2012.

Immediate Step

- The problem is in establishing that unrestrained GHG emissions are, in fact, a violation of existing international law and should be solved immediately otherwise the whole world community will face a dangerous situation which we can't even imagine.
- New mechanisms with new laws are just the immediate demand of international community.



THANK YOU FOR
YOUR ATTENTION!!

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