

Environmental Law

Some Basics

What is Environment?

- ‘the surroundings or conditions in which a person, animal, or plant lives or operates.’
- ‘the natural world, as a whole or in a particular geographical area, especially as affected by human activity.’

- Oxford Dictionary

- ‘the complex of physical, chemical, and biotic factors that act upon an organism or an ecological community and ultimately determine its form and survival.’

- Britannica Encyclopedia

Biggest Challenge as of today

- Protection
- Preservation
- Improvement
- Environment and Fragile Ecosystems
- Man – Development – Environmental Degradation
- Urbanization
- Industrialization
- It affects everyone

How?

- Pollution
- Air, Water!
- Ozone Layer
- Soil erosion
- Ground water depletion
- Deforestation / Destruction of Forests
- Contamination of Rivers, Sea, Ocean
- Water Logging, Floods
- The problem of Waste - Industrial, Solid, Municipal, Electronic, Hazardous

So?

- Should states step in?
- Make Laws?
- Problems beyond boundaries
- Shared resources
- Transboundary presence of the same
- UN
- FAO
- WHO
- WMO

International Environmental Law

- ‘every state’s obligation not to allow knowingly its territory to be used for acts contrary to the rights of other states.’ – ICJ in Corfu Channel
- No general definition
- But international agreements – Protection, Preservation, Management etc
- It can be the aggregate of all the rules and principles aimed at protecting the global environment.
- International law relating to
 - Prevention of pollution
 - Controlling movement of hazardous waste
 - Preservation of endangered species

Before the UN (Pre - 1945)

- Traditional Principles – Customary Practices – Conventions
- Treaties
 - 1902 – Convention for the protection of Useful Birds to Agriculture
 - 1911 – Treaty for the Preservation of Fur Seals
 - 1921 – Convention concerning the Use of White Lead and Painting
- Bi-lateral attempts
 - US and Great Britain – Boundary Water – US and Canada

Between 1945 to 1972

- Increase in the number of treaties concerning various aspects connected with the environment.
- Shift from ad-hoc to holistic approach
- International diplomacy – UN – strategic ideas
- UN and other specialized agencies
- International bodies and International agencies

Contd.

- WHO, WMO, ICAO, IAEA, FAO, UNESCO, OECD - Atmospheric Pollution
- IMCO (IMO), FAO, UNESCO, WHO, IAEA, OECD – Marine Environment
- WMO, FAO, UNESCO, OECD – Water Pollution and water resources
- WMO, FAO, UNESCO (IOC) – Land Use and Conservation of natural resources
- WHO, FAO, UNESCO in connection with IAEA, OECD, WHO, etc – setting of standard regarding select pollutants to look at Urban Environmental Problems

1972 - 1992

- Attempts for an Environmental Law Treaty intensified in 1970s
- Industrial Development vis-à-vis Sustainable Development
- Scope of the agreements concerning environment widened.
- Issues relating to wildlife, high seas, space and problems of global relevance started entering the mainstream.
- June 1972 – United Nations Convention on Human environment – UNCHE, Stockholm – Action Plan – 106 Recommendations – Declaration of 26 Principles.
- Proposal for new UN Agency – The United Nations Environment Program (UNEP) – UN General Assembly approval in 1975
- 1981 – Montevideo Programme

Post 1992

- July 1992 – 20th Anniversary of UNEP – United Nations Conference on Environment and Development (UNCED) – Rio de Janeiro, Brazil
- Review of Montevideo Programme
- Periodic Review of Environmental Law
- Rio Declaration on Environment and Development – 27 basic principles
- Agenda 21 – Framework for cooperative generation of strategies for sustainable development and environmental management
- 1996 – Meeting of Senior Government Officials and Experts in Environmental Law – UNEP

India

- Constitution of India – Fundamental Rights, Directive Principles, Fundamental Duties
- Article 21
- Article 48A (1976)
- Article 51A (g)
- Water (Prevention and Control of Pollution) Act, 1974
- Air (Control and Abatement of Pollution) Act, 1981
- Environmental Protection Act, 1986
- Public Interest Litigation

Principles on exercise of Jurisdiction by a State

- Territorial Principle
- Nationality Principle
- Protective Principle
- Universality Principle

Marine Environment

- Sea, Ocean --- Coast?
- Aquatic Life
- Ocean Floor
- Navigable Creek
- Marine Ecosystem

Maritime Transportation and Environment

- IMO – Instruments regulating shipping activities to protect marine environment
- IMO's main responsibility – Safety and Security of Global Shipping
- It is concerned about marine pollution, unintentional impacts on the environment
- Oil Spills
- Accidents
- International Convention for the Prevention of Pollution from Ships (MARPOL)
- United Nations Convention on the Law of the Sea (UNCLOS)

Maritime Transportation and Environment

- Air Pollution
- Spills from Ships
- Garbage
- Sewage
- End of Ship Life
- Ballast Water
- Underwater Noise
- Marine Megafauna – Ship Strikes
- Plastic Pollution in the ocean
- Onshore Garbage