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International Environmental Law: A Human Rights Oriented Approach.

Scholten, Andrew y Bresson, Julien.

Andrew Scholten, Julien Bresson

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Summary: The aim of this This paper discusses the most important approaches to international environmental law observed since 1980. International environmental law becomes an issue of scientific studies for nearly a forty years. This issues resulted in adoption of the biodiversity convention during nineties as well as further development of international environmental law. The issue of international environmental law is strongly interlinked with intergenerational equity. Defined by UNEP to include intergenerational equity - "the right of future generations to enjoy a fair level of the common patrimony" - and intragenerational equity - "the right of all people within the current generation to fair access to the current generation's entitlement to the Earth's natural resources" - environmental equity considers the present generation under an obligation to account for long-term impacts of activities, and to act to sustain the global environment and resource base for future generations. The article presents the most important legal debates concerning international environmental law over the past twenty years.

Introduction:

The issue of international environmental law is strongly interlinked with intergenerational equity. Defined by UNEP to include intergenerational equity - "the right of future generations to enjoy a fair level of the common patrimony" - and intragenerational equity - "the right of all people within the current generation to fair access to the current generation's entitlement to the Earth's natural resources" - environmental equity considers the present generation under an obligation to account for long-term impacts of activities, and to act to sustain the global environment and resource base for future generations. Pollution control and resource management laws may be assessed against this principle. One debate about the national debt relates to intergenerational equity. For example, if one generation is receiving the benefit of government programs or employment enabled by deficit spending and debt accumulation, to what extent does the resulting higher debt impose risks and costs on future generations? There are several factors to consider For every dollar of debt held by the public, there is a government obligation (generally marketable Treasury securities) counted as an asset by investors. Future generations benefit to the extent these assets are passed on to them, which by definition must correspond to the level of debt passed on. As of 2010, approximately 72% of the financial assets were held by the wealthiest 5% of the population. This presents a wealth and income distribution question, as only a fraction of the people in future generations will receive principal or interest from investments related to the debt incurred today. To the extent the U.S. debt is owed to foreign investors (approximately half the "debt held by the public" during 2012), principal and interest are not directly received by U.S. Heirs. Higher debt levels imply higher interest payments, which create costs for future taxpayers (e.g., higher taxes, lower government benefits, higher inflation, or increased risk of fiscal crisis). To the extent the borrowed funds are invested today to improve the long-term productivity of the economy and its workers, such as via useful infrastructure projects, future generations may benefit (see: Terminski Bogumil, 2015). For every dollar of intragovernmental debt, there is an obligation to specific program recipients, generally non-marketable securities such as those held in the Social Security Trust Fund. Adjustments that reduce future deficits in these programs may also apply costs to future generations, via higher taxes or lower program spending. Identified as essential conditions for "accountable governments . . ., industrial concerns," and organizations generally, public participation and transparency are presented by UNEP as requiring "effective protection of the human right to hold and express opinions and to seek, receive and impart ideas," "a right of access to appropriate, comprehensible and timely information held by governments and industrial concerns on economic and social policies regarding the sustainable use of natural resources and the

protection of the environment, without imposing undue financial burdens upon the applicants and with adequate protection of privacy and business confidentiality," and "effective judicial and administrative proceedings." These principles are present in In order 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 as a reason for postponing cost-effective measures to prevent environmental degradation.
The principle may play a role in any debate over the need for environmental regulation. They hope to provide enough aid on concerns regarding pollution before their impacts contaminate the African environment as well as the global environment. By doing so, they intend to “protect human health, particularly vulnerable populations such as children and the poor.” In order to accomplish these goals in Africa, EPA programs are focused on strengthening the ability to enforce environmental laws as well as public compliance to them. Other programs work on developing stronger environmental laws, regulations, and standards. The issue of international environmental law is increasingly important topic in the European Union law ssues secondary legislation on environmental issues that are valid throughout the EU (so called regulations) and many directives that must be implemented into national legislation from the 28 member states (national states). Examples are the Regulation (EC) No. 338/97 on the implementation of CITES; or the Natura 2000 network the centerpiece for nature & biodiversity policy, encompassing the bird Directive (79/409/EEC/ changed to 2009/147/EC)and the habitats directive (92/43/EEC). Which are made up of multiple SACs (Special Areas of Conservation, linked to the habitats directive) & SPAs (Special Protected Areas, linked to the bird directive), throughout Europe. EU legislation is ruled in Article 249 Treaty for the Functioning of the European Union (TFEU). Topics for common EU legislation are: Climate change, Air pollution, Water protection and management, Waste management, Soil protection, Protection of nature, species and biodiversity, Noise pollution, Cooperation for the environment with third countries (other than EU member states), Civil protection

Regulation in International Environmental Law:

International environmental law is strongly connected with indigenous rights. There are several non-governmental civil society movements, networks, indigenous and non-indigenous organizations whose founding mission is to protect indigenous rights, including land rights. These organizations, networks and groups underline that the problems that indigenous peoples are facing is the lack of recognition that they are entitled to live the way they choose, and lack of the right to their lands and territories. Their mission is to protect the rights of indigenous peoples without states imposing their ideas of "development". These groups say that each indigenous culture is differentiated, rich of religious believe systems, way of life, substenance and arts, and that the root of problem would be the interference with their way of living by state's disrespect to their rights, as well as the invasion of traditional lands by multinational cooperations and small businesses for exploitation of natural resources. The indigenous rights belong to those who, being indigenous peoples, are defined by being the original people of a land that has been invaded and colonized by outsiders. Exactly who is a part of the indigenous peoples is disputed, but can broadly be understood in relation to colonialism. When we speak of indigenous peoples we speak of those pre-colonial societies that face a specific threat from this phenomenon of occupation, and the relation that these societies have with the colonial powers. The exact definition of who are the indigenous people, and the consequent state of rightsholders, varies. It is considered both to be bad to be too inclusive as it is to be non-inclusive. In the context of modern indigenous people of European colonial powers, the recognition of indigenous rights can be traced to at least the period of Renaissance. Along with the justification of colonialism with a higher purpose for both the colonists and colonized, some voices ountries that ratified the *Convention 169* since the year of adoption in 1989: Argentina, Bolivia, Brazil, Central African Republic, Chile, Colombia, Costa Rica, Denmark, Dominica, Ecuador, Fiji, Guatemala, Honduras, México, Nepal, Netherlands, Nicaragua, Norway, Paraguay, Peru, Spain and Venezuela. The law recognizes land ownership; equality and freedom; and autonomy for decisions affecting

indigenous peoples. Presented issue is sometimes connected and misunderstood with the issue of cultural imperialism. "The concept of cultural imperialism today [1975] best describes the sum of the processes by which a society is brought into the modern world system and how its dominating stratum is attracted, pressured, forced, and sometimes bribed into shaping social institutions to correspond to, or even promote, the values and structures of the dominating centre of the system. The public media are the foremost example of operating enterprises that are used in the penetrative process. For penetration on a significant scale the media themselves must be captured by the dominating/penetrating power. This occurs largely through the commercialization of broadcasting." The journal was established in 1974 as an "outgrowth of the activities of the student Environmental Law Council" at Columbia Law School. In the introduction to the first edition of the journal, Columbia Law School Dean Michael I. Sovern stated that he hoped the journal would serve as "training grounds" to help environmental lawyers "learn their craft.". Sovern also remarked that environmental scholarship had "passed the long, dark years when those concerned with the environment were considered kooks" and he assured readers that the journal would not be "recycled" like another "long-gone New York newspaper.". In opening remarks for the twenty-fifth anniversary edition of the journal, a member of the journal's board of directors suggested that future authors would need to confront "second-generation environmental problems" that would be "more complex" than problems in the past.

Presented issue is connected with the EU activities on environmental law. A declaration on environmental and consumer policy was adopted at this summit which requested the European Commission to draw up an action programme for environmental protection. This (first) Environmental Action Programme was adopted in July 1973 and represented the EU's first environmental policy. Furthermore, the task force within the Commission that drew up this action programme eventually led to the formation of a Directorate General for the Environment.

The primary reason at that time for the introduction of a common environmental policy was the concern that diverse environmental standards could result in trade barriers and competitive distortions in the Common Market. Different national standards for particular products, such as limitations on vehicle emissions for the lead content of petrol, posed significant barriers to the free trade of these products within the Economic Community (EC). An additional motivation driving the EU's emerging environmental policy was the increasing international politicisation of environmental problems and the growing realisation from the beginning of the 1970s that environmental pollution did not stop at national borders, but had to be addressed by cross-border measures.[5] At that time there was no mention of environmental policy in the founding treaties of the EU and therefore no explicit Treaty basis which underpinned EU environmental policy. However, the Treaty text was interpreted dynamically, enabling environmental policy to be regarded as an essential goal of the Community, even though it was not explicitly mentioned. It was not until the middle of the 1980s and the signing of the Single European Act in 1986 that economic and ecological objectives were put on a more equal footing within the Community.

Terminski B., *Environmentally-Induced Displacement: Theoretical Frameworks and Current Challenges*, CEDEM Research Paper, Universite De Liege, 2012.
Sands P., Principles of International Environmental Law, Oxford University Press, 2011.