



# A Historical Look at Environmental Law: A Global Journey

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## **Abstract**

This research paper offers a thorough historical account of the evolution of international environmental law, tracing its roots from resource management and pollution control methods in early civilizations to modern global frameworks. In this study, the foundation for environmental protection was established by ancient societies, with examples drawn from Mesopotamia and the Roman Empire. Then, it looks at significant occasions like the Stockholm Conference in 1972, which sparked global collaboration on environmental protection. The proliferation of international environmental agreements, the influence of scientific uncertainty on legal frameworks, and the private sector's role in defining environmental norms are all covered in this study. It also looks at how human rights and the environment are related, highlighting how the right to a healthy environment is being increasingly recognised. The paper concludes by discussing the difficulties in creating legal frameworks for compensation and accountability under international environmental law. Overall, this study highlights the intricate relationships that exist between human rights, sustainable development, environmental preservation, and the continuous attempts to use legal means to address environmental issues on a global scale.

**Keywords:** International environmental law, Environmental protection, Stockholm Conference 1972, Global environmental governance

## **Introduction**

The concept of environmental protection through legal frameworks has a surprising long history, despite its formalization and worldwide reach being relatively new. Recent advances in environmental protection regulations can be traced back to the Stockholm Conference on the Human Environment in 1972. However, evidence suggests that ancient civilizations implemented similar techniques. Early cultures frequently had norms for resource management and pollution control, even though their legal systems were not formalized.

### **I. Early Antecedents (Pre-19th Century):**

Water management procedures in Mesopotamia and sanitation rules in the Roman Empire are fascinating instances of early societies enforcing resource management and pollution control rules.

Mesopotamia, often known as the "land between the rivers" (Tigris and Euphrates), was one of the first centers of civilization. Water management was critical to the agricultural development of this region. Mesopotamians devised a complex network of canals, levees, and reservoirs to control the flow of water for irrigation and prevent flooding. Canal building enabled the distribution of water to farms, maintaining a steady supply of food for the rising population. Furthermore, reservoirs served to store water during dry seasons, ensuring ongoing agriculture irrigation. The Hanging Gardens of Babylon, regarded as one of the Seven Wonders of the Ancient World, were one of Mesopotamia's most impressive water management

constructions. These gardens were an engineering marvel, demonstrating the superior irrigation systems of the day. The gardens were constructed as a succession of terraces with trees, shrubs, and plants, all watered by a sophisticated system of aqueducts and water channels.<sup>1</sup>

Similarly, the Roman Empire was famed for its excellent engineering and infrastructure, as well as sanitary legislation designed to protect public health and hygiene. The Romans recognised the value of clean water and proper waste disposal in illness prevention and health promotion. One of the most important sanitary measures in the Roman Empire was the construction of aqueducts to carry fresh water into cities. Aqueducts were magnificent marvels of engineering that used gravity to convey water over large distances. The water provided by aqueducts was utilized for drinking, bathing, and other public uses. In addition to supplying clean water, the Romans created sophisticated sewage systems. Public latrines, baths, and drainage systems were widespread in Roman communities. The Cloaca Maxima, a large sewer system in Rome, is a notable example of Roman engineering dedicated to managing wastewater and preventing pollution.<sup>2</sup>

Mesopotamia and the Roman Empire set early precedents for excellent water management and sanitation rules. These systems not only improved their populations' quality of life, but also established a pattern for future civilizations in terms of resource management and pollution control.

## II. *The Stockholm Conference and the Early Pillars of International Environmental Law*

Although the earliest examples of environmental legislation can be traced back to Mesopotamia, worldwide environmental law did not take shape until the twentieth century. The nineteenth century saw a substantial shift in human attitudes towards the environment, with increased concerns about resource depletion, pollution, and the effects of industrialization on the natural world. The Industrial Revolution, which began in the late 18th century, caused enormous changes in the way things were produced, resulting in increasing pollution and resource depletion. The use of coal as a key energy source polluted the air and water, while increased agriculture and deforestation caused soil erosion and biodiversity loss. As a counter to the same, this period saw the emergence of early regulations related to resource management and pollution control, as societies began to recognize the importance of preserving the environment for future generations.

The Stockholm Conference, held in 1972, is widely considered as one of the founding cornerstones of international environmental law. This conference was the first time that governments from around the world got together to identify and address environmental issues. The conference resulted in the Stockholm Declaration, which recognised the significance of environmental protection and the necessity for international collaboration to achieve it.

In the two decades that followed the Stockholm Conference, the proliferation of international environmental agreements accelerated. By the end of this time, there were over 1100 international legal instruments that were either entirely focused with the environment or had significant provisions about it. This figure comprised both contractual agreements and nonbinding legal instruments, such as the United Nations' Stockholm Declaration on the Human Environment.

Countries developed the ability to negotiate new accords in a relatively short period of time, often less than two years. The United Nations Framework Convention on Climate Change, for example, required just 16 months to achieve an accord. However, implementing the accords took longer than negotiating them. International environmental accords were typically structured as individual agreements for specific concerns, each with its own monitoring and reporting system, secretariat, and, in many cases, its own, separate finance facility to help countries in executing the agreement. By 1993, it was clear that there was "treaty congestion" and that the system needed to be more efficient.

During this time, the concept of a framework agreement evolved, which was complemented by one or more protocols to handle specific issues. The agreements took the form of a framework agreement outlining broad rules, followed by one or more protocols that addressed specific issues of regional

<sup>1</sup> [https://link.springer.com/chapter/10.1007/978-1-4020-9867-3\\_2](https://link.springer.com/chapter/10.1007/978-1-4020-9867-3_2)

<sup>2</sup> <https://www.scmp.com/magazines/post-magazine/long-reads/article/1989397/exploding-toilets-diseased-baths-and-flooding>

maritime protection. This approach was designed to ensure that the agreements had "teeth" to safeguard the regional marine. The framework agreement with different protocols formed the model for the negotiation of many other international agreements, including those governing long-range transboundary air pollution.

### III. *Scientific Uncertainty and Adjusting to Changes in Scientific Knowledge*

The evolution of international environmental law has been heavily impacted by scientific uncertainty and the need to adapt to changes in scientific knowledge. Early international agreements did not typically include mechanisms for responding to advances in scientific knowledge, but agreements negotiated after 1970 increasingly did. These provisions frequently took the form of regular technical assessments by experts, simplified procedures for phasing out dangerous substances more quickly, and the inclusion of annexes with simplified procedures for additions.

The necessity for scientific assessments and changes in international environmental law stems from the inherent ambiguity in comprehending the natural system, our interactions with it, and the consequences of our goods on it. Our scientific understanding is always changing, and early international agreements did not provide for adaptation to changes in scientific knowledge. However, agreements negotiated after 1970 increasingly included such measures, recognising the necessity of keeping up with new scientific understanding in environmental protection.

The 1978 Great Lakes Water Quality Agreement, signed by Canada and the United States of America, expanded the 1972 Agreement's focus from specific types of pollution to the conservation of basin-wide ecosystems in the Great Lakes. This resulted in the introduction of a Protocol in 1987 to address groundwater pollution and pollution transport in the atmosphere, both of which are critical to maintaining the Great Lakes environment.<sup>3</sup>

The relevance of scientific assessments and changes in international environmental law is emphasized by the fact that several international accords include monitoring, early warning systems, and risk prioritization. Similarly, other agreements reached during this time period focused on ecosystem conservation rather than individual pollutants or sources of pollution.<sup>4</sup>

### IV. *The Role of the Private Sector in International Environmental Law*

The private sector has also contributed significantly to the evolution of international environmental legislation by establishing its own global environmental standards and practices. These rules and practices may preempt what governments would otherwise do, as they frequently establish high criteria for environmental preservation and sustainability.

Private environmental practice norms include the International Organisation for Standardisation (ISO) environmental management standards, which give a framework for managing environmental impacts and improving environmental performance. The ISO 14000 collection of standards, for example, covers environmental management systems, auditing, and labelling. Other private environmental laws include the standards for sustainable tropical timber trade and sustainable fisheries, which seek to promote responsible sourcing and production techniques. The Forest Stewardship Council, for example, develops criteria for responsible forest management, whereas the Marine Stewardship Council establishes guidelines for sustainable fishing methods.. The charter outlines environmental management concepts, such as pollution avoidance, resource conservation, and the promotion of sustainable development. Similarly, the Chemical Manufacturers Association's Responsible Care Programme is a voluntary project aiming at improving the chemical industry's environmental, health, and safety practices. The programme has a set of guiding principles and a commitment to ongoing improvement.

The CERES principles were another set of rules for sustainable business practices. The principles address a variety of environmental, social, and governance challenges, including climate change, water

<sup>3</sup>[https://www.ijc.org/sites/default/files/Great%20Lakes%20Water%20Quality%20Agreement%20-%202012\\_1.pdf](https://www.ijc.org/sites/default/files/Great%20Lakes%20Water%20Quality%20Agreement%20-%202012_1.pdf)

<sup>4</sup> <https://scholarship.law.wm.edu/wmelpr/vol143/iss3/3/>

conservation, and human rights. Similarly, the Equator Principles are a set of principles for private banks on how to analyze and manage environmental and social risks when financing projects. The guidelines apply to projects with capital costs above \$10 million, and banks must analyze the environmental and social implications of projects and verify that they are compliant with international environmental and social standards.

These private codes of environmental practice are frequently created in collaboration with governments, international organizations, and civil society organizations. They provide a framework for environmental protection and sustainability that goes above and beyond what is needed by law, potentially driving innovation and progress towards a more sustainable future. The private sector's engagement in international environmental legislation is projected to expand in the coming years, as corporations recognise the value of environmental preservation and sustainability for long-term prosperity. By collaborating with governments, international organizations, and civil society groups, the business sector can assist in creating a more sustainable and just world for all.<sup>5</sup>

## V. *Linking Human Rights to the Environment*

The linkage of human rights and the environment is an important advancement in international environmental law. The 1972 Stockholm Declaration on the Human Environment laid the groundwork for this linkage by recognising the fundamental right to freedom, equality, and acceptable living conditions in an environment of sufficient quality to allow for a life of dignity and well-being. Principle 1 of the 1992 Rio Declaration on Environment and Development recognised the relevance of human rights in environmental conservation, declaring that people have the right to live a healthy and productive life in harmony with nature.

Several regional human rights instruments recognise the right to a healthy environment. The 1981 African Charter of Human and Peoples Rights, which went into force in 1986, states that all peoples have the right to a general agreeable environment conducive to their development. The Additional Protocol to the American Convention on Human Rights of 1988 states that everyone has the right to live in a healthy environment. The European Convention on Human Rights does not explicitly provide for a right to the environment. However, the European Court of Justice has established parallels between protecting human rights and protecting the environment.<sup>6</sup>

The United Nations has also attempted to link human rights with the environment, with a draft Declaration of Principles on Human Rights and the Environment that was written over 15 years ago but never ratified. However, subsequent resolutions adopted by the United Nations Human Rights Council have acknowledged the link between climate change and human rights, as well as the right to water and sanitation.

The recognition of a human right to a healthy environment has also been enshrined into national constitutions, albeit in various forms. For example, Chile's Constitution (1980) recognises the right to live in a contaminant-free environment. The Republic of South Africa's Constitution (1996) recognises the right to an environment that is not damaging to health or well-being. Ecuador's Constitution (2008) recognises the right to live in a healthy, ecologically balanced environment. The relationship between human rights and the environment is significant because it acknowledges their interdependence. A healthy environment is required for the exercise of human rights such as the right to life, health, and cultural freedom. In contrast, human rights protection can help to conserve and use the environment sustainably. However, recognising a human right to a healthy environment is not without its challenges. There is ongoing dispute concerning the scope and content of this right, as well as the means for implementing and enforcing it. Despite these obstacles, the connection between human rights and the environment is an important advance in international environmental law that recognises the basic relevance of a healthy environment for human well-being and dignity.<sup>7</sup>

<sup>5</sup> <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=2684&context=facpub>

<sup>6</sup> [https://en.wikipedia.org/wiki/African\\_Charter\\_on\\_Human\\_and\\_Peoples%27\\_Rights](https://en.wikipedia.org/wiki/African_Charter_on_Human_and_Peoples%27_Rights)

<sup>7</sup> [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1457793](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1457793)

## VI. *Challenges in Developing Legal Frameworks for Liability and Compensation*

Creating legal foundations for accountability and compensation in international environmental law has been a difficult task. The international community recognised the importance of such frameworks in 1992, but progress has been gradual, with a few notable exceptions. These exceptions include the Basel Protocol on Liability and Compensation, the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety, the Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters, and the International Law Commission's 2006 Principles on the Allocation of Loss in the case of Transboundary Harm Arising from Hazardous Acts.<sup>8</sup>

One of the most difficult aspects of creating legal frameworks for culpability and compensation is establishing liability. In international environmental law, liability can stem from a range of causes, including state actions, private sector activities, and natural disasters. Determining who is accountable for environmental harm and how that responsibility should be allocated is a difficult task that must take into account a variety of criteria, including the nature of the damage, the parties involved, and the applicable legal standards.

Another problem is balancing environmental preservation with other policy goals, such as economic growth and national sovereignty. This can lead to conflict between the need to hold people responsible for environmental damage accountable and the need to avoid unduly burdensome rules that could stifle economic progress.

Furthermore, the global character of environmental issues frequently necessitates collaboration and coordination among numerous parties, including governments, private sector companies, and international organizations. Effective legal frameworks for accountability and compensation must address these difficulties and find strategies to ensure that individuals responsible for environmental harm are held accountable while also encouraging sustainable development and preserving national sovereignty.

In essence, developing legal frameworks for accountability and compensation in international environmental law is a complex and ongoing process that needs careful consideration of a variety of issues, including the nature of the damage, the parties involved, and the relevant legal standards. Despite the hurdles, much has been achieved in recent decades, and the international community is working to build more effective and comprehensive legal frameworks to mitigate environmental damage and promote sustainable development.

The development of international environmental law can be traced back to early standards for pollution control and resource management set by ancient societies such as the Roman Empire and Mesopotamia. An important turning point was the Stockholm Conference in 1972, which established the framework for global cooperation on environmental protection. International environmental agreements have proliferated throughout time, tackling a broad variety of issues from climate change to ecosystem conservation. Environmental law has developed with provisions for regular technical assessments and methods for responding to new scientific understanding, formed by scientific uncertainty and the need to adapt to changes in scientific knowledge. In addition, the private sector has been instrumental in establishing international environmental norms and practices, frequently going above and beyond what is required by law to advance sustainability. The recognition of the connection of a healthy environment and fundamental human rights via the lens of human rights and the environment is a significant accomplishment. Notwithstanding difficulties in creating legal frameworks for compensation and accountability, accords such as the Basel Protocol and the Nagoya-Kuala Lumpur Supplementary Protocol have brought about progress.

In summary, the development of international environmental law represents a cooperative attempt to tackle global environmental issues, striking a balance between the demands of sustainable development and environmental preservation and the requirements for accountability and recompense. The acknowledgement that everyone has a right to a healthy environment highlights how crucial it is to protect the environment for both present and future generations, as well as the complex interrelationships that exist between environmental preservation, human rights, and sustainable development.

<sup>8</sup> <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=2684&context=facpub>