

International Cooperation for Environmental Protection in the 21st Century

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ABSTRACT

Environmental protection and sustainable development are the most important issues which show typically interdependence between cultural, economic, political, social and environmental aspects at the national, regional and global dimensions. International cooperation for environmental protection and sustainable development is one of the pillars of the second half of the 20st and 21st centuries. It is important to note that international environmental cooperation involves many issues in global and regional dimensions. In addition, this cooperation in environmental protection takes two forms in Institutional and Non institutional cooperation. For this purpose, this research aims to analyze the international cooperation for environmental protection in the multidisciplinary approach in two principal parts: Global & Regional cooperation and Institutional & Non institutional cooperation. The paper also examines the legal basis of international environmental protection. Finally, this study has found that institutionalization of international cooperation is a key of the implementation of international environmental law.

Introduction

International co-operation is one of the most peculiar characteristics of international law in the new age. The scope of international co-operation not only engaged in pace keeping or global security but also it concerns the vast aspects of international issues such as the economic, social, political and environmental aspect of the world. It is understood that in the current situation of the world, some scopes of international relationships need more global co-operation. In this context, environmental preoccupation can only be addressed by the international community as a whole. For this reason, international co-operation plays an essential role in environmental protection.

In recent decades, the protection of the environment became a major preoccupation for almost all of the countries in the world. The world has to address multiple problems such as population growth, industrialization, and

air pollution, degradation of the quality of water, the deterioration of hygiene and the destruction of the natural environment. In this perspective, for solving environmental problems at national, regional and global levels, the majority of the states intend to participate in the global or local efforts to protect the environment.

It is true that the environment has no border. Base on this fact, all countries in the world should co-operate for environmental protection. Indeed, after the United Nations Conference on the Human Environment (Stockholm declaration 1972), the global environment is considered as a humankind heritage. In this perspective, international matters concerning the protection and improvement of the environment should be handled in a cooperative spirit by all countries, big and small, on an equal footing. Co-operation through multilateral or bilateral arrangements or other appropriate means is essential to control effectively,

prevent, reduce and eliminate adverse environmental effects resulting from activities conducted in all spheres; in such a way that due account is taken of the sovereignty and interests of all States (Principle 24 of Stockholm declaration 1972).

This paper has been divided into four parts. The first part deals with the global co-operation for environmental protection. The second part examines the regional co-operation for environmental protection. The third part analyses the institutional co-operation for ecological protection, and finally, the fourth part deals with non-institutional co-operation for environmental protection.

Materials and Methods

I. Global co-operation for environmental protection

Global environmental co-operation is one of the common concerns of the number of international regulations (binding or non-binding instruments) from the Stockholm Declaration 1972 to the 2030 Agenda for Sustainable Development. International co-operation is becoming a significant part of international relations for environmental protection. The main reason for this approach in international law is based on this reality that environmental problems should be addressed internationally, both environmentally and politically. International environmental treaties, unlike some other areas of the public international law, bind states, but compliance requires behavior to change primarily by private actors. In this perspective, the incentive structure in the treaties for these non-governmental actors can thus have implications for how they are implemented (Desombre R. E. 2005).

In this regard, the principle of International Cooperation has great importance in the International environmental law as one of the public international law disciplines. For this purpose, the equitable and reasonable utilization of territory and management of shared resources such as transboundary water resources and international lakes requires international co-operation. The universal desire to Public's need to co-operate toward environmental protection in many binding and non-binding legal instruments and its implementation in global and regional scope is proved the legal basis of the principle of co-operation in international environmental law are clearly expressed the Stockholm Declaration 1972 (Poorhashemi, zarei & khalatbari, 2013). According to the principle 22 of this Declaration, all States shall co-operate to develop further the international law regarding liability and compensation for the victims of pollution and other

environmental damage caused by activities within the jurisdiction or control of such States to areas beyond their jurisdiction. Furthermore, the principle 24 asserts that the international matters concerning the protection and improvement of the environment should be handled in a cooperative spirit by all countries, big and small, on an equal footing. For this convention, co-operation through multilateral or bilateral arrangements or other appropriate means is essential to control effectively, prevent, reduce and eliminate adverse environmental effects resulting from activities conducted in all spheres; in such a way that due account is taken of the sovereignty and interests of all States (Stockholm Declaration 1972). Ten years later, the "World Charter for Nature" was adopted by the General Assembly of UN in its Resolution A/RES/37/7 in October 1982. According to the principle 21, all states and, to the extent they are able, other public authorities, international organizations, individuals, groups and corporations shall co-operate in the task of conserving nature through shared activities and other relevant actions, including information exchange and consultations (World Charter of Nature 1982). Many other soft law instruments declare the principle of international co-operation in international environmental law.

Besides, several multilateral environmental agreements (MEAs) proved the importance of international co-operation in the global dimension. For instance, the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention 1979) in its article 2 emphasizes that the Parties acknowledge the importance of migratory species being conserved and of Range States agreeing to take action to this end whenever possible and appropriate, paying particular attention to migratory species the conservation status of which is unfavourable, and taking individually or in co-operation appropriate and necessary steps to conserve such species and their habitat, in this regard all the member states of this convention should promote, co-operate in and support research relating to migratory species (Bonn Convention 1979). Three years later, the United Nations Convention on the Law of the Sea in 1982 reaffirmed in its article 197 the importance of international co-operation on a global or regional basis. According to this article, all member states shall co-operate on a worldwide basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment,

taking into account characteristic regional features (Convention on the Law of the Sea 1982). Furthermore, article 2 of the Vienna Convention for the Protection of the Ozone Layer 1985 stated that for implementation of the convention the parties should, following the means at their disposal and their capabilities should co-operate utilizing systematic observations, research and information exchange to better understand and assess the effects of human activities on the ozone layer and the impact on human health and the environment from modification of the ozone layer and adopt appropriate legislative or administrative measures and co-operate in harmonizing proper policies to control, limit, reduce or prevent human activities under their jurisdiction or control, should it be found that these activities have or are likely to have adverse effects resulting from modification or possible modification of the ozone layer. Finally, they should co-operate in the formulation of agreed measures, procedures and standards for the implementation of this Convention, with a view to the adoption of protocols and annexes and co-operate with competent international bodies to implement effectively this Convention and treaties to which they are a party (Vienna Convention 1985). The obligation of international co-operation for environmental protection was reflected many times in other international conventions from 1970 up to now.

Finally, the international normative efforts to develop international environmental law are connected directly by the globalization. In other words, environmental co-operation has gradually become multilateralized in order to confront the threats to the global environment. But the progression of scientific knowledge broadens the scope of these threats. The local disappearance of a particular species of endemic plant contributes to the scarcity of biological diversity, which is inherently global. For this reason, the environmental issue has become global, translating legally through the negotiation of international conventions for the protection of the global environment (Birnie, Boyle & Redgwell 2009).

II. Regional co-operation for environmental protection

Regional co-operation for the environmental issue is one of the new aspects of international environmental law in the 21st century. Based on the local interests, understanding and neighbourhood principle, regional states aim to co-operate in environmental issues. In this perspective, environmental protection for the Mediterranean Sea, Caspian Sea, Persian Gulf and other regions can be defined as a regional co-operation for

environmental protection. The regional co-operation approach has a central role in environmental protection.

The regional efforts to environmental co-operation include all interactive activities such as exchange of information, technical assistance, emergency help and coordination. In this context, many local institutions are created to organize the form of such co-operation.

The Charter of the United Nations has emphasized the regional co-operation in international matters. Article 52 stated that nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such issues relating to the maintenance of international peace and security as are appropriate for regional action provided that such methods or agencies and their activities are consistent with the Purposes and Principles of the United Nations. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional agreements or by such regional agencies before referring them to the Security Council. The Security Council shall encourage the development of the pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council (Charter of the United Nations 1945).

There are several treaties and legal instruments in international environmental law to establish regional co-operation for environmental protection. In this perspective, the Convention for Protection of the Mediterranean Sea against Pollution¹ is a regional convention adopted in 1976 in order to prevent and abate pollution from ships, aircraft and land based sources in the Mediterranean Sea. The aim of this convention includes but is not limited to dumping, run-off and discharges. The regional states agreed to co-operate and assist in dealing with pollution emergencies, monitoring and scientific research (Barcelona Convention 1976). In addition, the Convention on the Protection of the Rhine (Bern Convention 1999), the Convention of 17 March 1992 on the protection and use of transboundary watercourses and international lakes and the Convention of 22 September 1992 on the protection of the marine environment of the north-east Atlantic, the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution and the Additional Agreement of 3 December 1976, the

Convention of 3 December 1976 for the protection of the Rhine against chemical pollution and the Rhine Action Programme of 30 September 1987 are the legal instruments in order to protect the Rhine in the regional approach. (Khalatbari & Poorhashemi, 2019)

Furthermore, the Framework-Convention for the Protection of the Marine Environment of the Caspian Sea (Tehran 2003) is another regional effort to protect the Caspian Sea from all sources of pollution and at preserving and restoring its biological resources for present and future generations. This convention is adopted and signed in 2003, the Convention entered into force in August 2006 and is the first regional legally binding agreement signed and ratified by all five Caspian littoral states. The Tehran Convention addresses all threats to the Caspian environment and notably commits the Caspian states to jointly prevent pollution and protect the marine environment as well as encourages the Contracting Parties to build and secure a sustainable future. UNEP administers the Secretariat of the Tehran Convention and, *among other things*, assists Contracting Parties in the development and negotiations of ancillary protocols to the Convention. In the framework of the Convention, four Protocols have been developed on the thematic priority areas of environmental impact assessment in a transboundary context, protection against pollution from land-based sources and activities, conservation of biological diversity and preparedness and joint response towards oil spill incidents. The development of a protocol on data and information sharing in support of the implementation of the Tehran Convention is also underway. Three protocols have been adopted and signed by the Caspian countries so far: the "Aktau" Protocol on Regional Preparedness, Response and Co-operation in Combating Oil Pollution Incidents (at COP3, in August 2011), the "Moscow" Protocol for the Protection of the Caspian Sea against Pollution from Land-based Sources and Activities (at COP4, in December 2012) and the "Ashgabat" Protocol for the Conservation of Biological Diversity (at COP5, in May 2014). The Protocol addressing environmental impact assessment in a transboundary context is close to finalization and expected to be adopted and signed at COP6 in Azerbaijan. Following the adoption of a Regional Strategic Convention Action Plan, National Convention Action Plans with embedded National Public Participation Strategies have been developed in all Caspian littoral states. These plans anticipate the implementation of the four Protocols and, together with a proposal for an environmental monitoring

programme, were welcomed by Ministers at COP4 (UNEP 2017).

Finally, the regional co-operation for environmental protection is a new approach of the international community to protect and preserve the regional environment such as the Mediterranean Sea, Caspian Sea, Persian Gulf, Black Sea and Rhine River.

III. Institutional co-operation for environmental protection

One of the main approaches to international environmental law in the 21st century is institutionalization. According to the definition from Michel Virally an international organization "is the association of sovereign states established by an agreement (usually an international treaty that becomes its status) among its members and endowed with a permanent apparatus of bodies responsible for pursuing the attainment of objectives of common interest through co-operation between them" (Virally 1980). Besides, the International organization is an association of some states constituted by a statute with collective bodies and having a legal personality distinct from that of the member States. In environmental issues, international organizations coordinate their efforts to achieve to protect the environment at regional or global levels. The idea that co-operation, in particular inter-institutional co-operation, is an essential instrument for the effectiveness of environmental protection is widely agreed in principle. Institutional aspect of environmental protection aims to guarantee a certain degree of permanence and stability at the international level, which has a certain degree of autonomy vis-à-vis its member states.

The objectives of the International Organizations are multiple and diverse and depend on the field of their competence. The UN, for example, is responsible for the maintenance of peace through the Security Council and seeks to solve global socio-economic and humanitarian problems through its specialized agencies.

United Nations Environment Programme (UNEP) is a major global institution for promoting environmental protection. This Programme was founded after the Stockholm Declaration 1972 to lead global environmental governance in the world. The UNEP regularly works to promote environmental protection with the agencies of the UN, the World Bank and other international institutions, the NGOs, the private sector and civil society. It has been relatively successful in two main areas: monitoring and

advising, and the development of environmental agreements. It has also helped to strengthen the institutional capacity of environmental ministries around the world. However, UNEP has failed to develop coherent and coordinated policy management processes in the world. It has also failed to identify and promote best practices. It has not become the institutional reference for many international environmental treaties. This lack of solidarity has contributed to the perpetuation of increasingly complex and fragmented global environmental governance. (Poorhashemi & Arghand, 2013)

The emergency and magnitude of the problems going beyond the capacity of existing institutions raise some questions about the need to create an international organization that focuses on these issues: a World Organization for the Environment. Another option would be to reform the United Nations Environment Programme by an expanded operating structure and a more evident operational mandate. In any case, continuing discussions on the possible establishment of a new structure should not lead to underestimating the importance of the current role of the UNEP in environmental protection. The creation of the “World Organization for the Environment” could be considered as a solution for the institutional problem of international environmental law. The increasing globalization of environmental threats has led many actors, including some States, to defend the proposal to establish a “World Organization for the Environment” within the framework of the United Nations, which is capable of drawing up treaties and their implementation in the world. (Poorhashemi & Arghand, 2013)

III. Non-Institutional co-operation for environmental protection

Public international law has a long history for bilateral or multilateral co-operation between states. States historically create international agreements and treaties to deal with many different issues such as environmental, economic, technological, and legal problems that they cannot solve by themselves separately. In fact, in the absence of a supranational government in international law, states realize that they need each other's to promote co-operation, prevent and resolve conflicts, and facilitate information sharing between like-minded parties. This strategy is particularly evident in the establishment over the past four decades of several international regulatory regimes for the protection and management of specific environmental conditions of worldwide concern (Joyner Ch. C 2005).

The obligation of states to co-operate in an international relationship was established in the Resolution adopted by the General Assembly [Adopted on a Report from the Sixth Committee (A/8082)] 2625 (XXV), Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States following the Charter of the United Nations (1970). According to this Declaration, States have to co-operate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, to maintain international peace and security and to promote global financial stability and progress, the general welfare of nations and international co-operation free from discrimination based on such differences. For this reason, States shall co-operate with other States in the maintenance of international peace and security; States shall co-operate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all kinds of religious intolerance; States shall conduct their international relations in the economic, social, cultural, technical and trade fields per the principles of sovereign equality and non-intervention; States Members of the United Nations have the duty to take joint and separate action in co-operation with the United Nations following the relevant provisions of the Charter. States should co-operate in the economic, social and cultural fields as well as in the field of science and technology and for the promotion of international cultural and educational progress. States should co-operate in the development of economic growth throughout the world, especially that of the developing countries (Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States 1970).

The first effort of international environmental law to create some agreements on environmental protection is sustainably based on the shared resources, primarily water and wildlife, which was before the Stockholm Declaration 1972. The early wildlife agreements generally addressed animal species that migrated from one state to another (or existed in a shared geographic space like the oceans). They had in common an effort to manage a shared resource so that it could continue to be harvested over time. Though the terminology would have been different at the time, this approach reflects what we now think of as sustainable use. The 1911 *Convention for the Preservation and Protection of Fur Seals* is one of the earliest examples of this type of treaty; the 1946 *International Convention for the Regulation of Whaling* (ICRW). Several international

fisheries agreements, negotiated in a period that began roughly in the 1950s, also fit into this category (Desombre 2005). However, after the Stockholm Declaration 1972, the international community tried to promote international co-operation in the framework of institutional manner.

Conclusion

The environment and natural resources must be considered as a global commons and common concern of humankind. The worldwide character and dimension of the environment encourage shared management by all states and people in the world. However, the current state of environmental co-operation and governance is far from meeting one or more of these imperatives. Faced with the need to respond to the complex nature of the ecological problem, it is essential to establish unified multilateral management between all the actors involved. So far, the global community has been unable to meet this challenge, and many scourges plague current governance. Thus, despite the growing awareness of environmental issues in both developed and developing countries, environmental degradation is continuing, and new environmental problems are emerging. The division between developed countries and the developing countries must be taken into account to understand the institutional failure of the current global environmental governance.

The Stockholm Conference 1972 was undoubtedly the starting point of international co-operation for environmental protection. In addition to the Declaration and Plan of Action comprising 109 points, the Conference had adopted a resolution on financial and institutional arrangements. The emergence at the international level of specific institutional mechanisms in the field of the environment was based on this Declaration. Afterward, the development of the new institutions to promote the implementation of the environmental legal instruments was accepted in international environmental law. Such institutions have rapidly become necessary to protect the environment at regional and global levels. Institutionalization of international co-operation has a major role in the implementation of multilateral environmental agreements. Institutionalization is also essential for effective control of the application by the Member States of the contractual obligations of their treaty obligations.

The obligation of states to co-operate in environmental protection is formulated as well in Principle 7 of the Rio Declaration 1992. According to this principle, all States shall co-operate in a spirit of global partnership to

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conserve, protect and restore the health and integrity of the Earth's ecosystem. Given the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit to sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command (Rio Declaration 1992).

Finally, the following conclusions can be drawn from the present study that the increasing role of non-governmental actors such as NGOs, private sectors demonstrates the new direction of international co-operation for environmental protection. In this perspective, non-governmental actors have a significant role in promoting international co-operation in many environmental issues in the world.

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