

International Environmental Law and Global Environmental Governance: Principles, State Responsibility and Sustainable Development

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Abstract

International law has played a decisive role in the emergence, consolidation, and continuing development of international environmental law. Through international declarations, multilateral treaties, customary rules, and judicial decisions, it has established a normative framework intended to prevent environmental harm, regulate activities with transboundary effects, promote sustainable development, and strengthen the accountability of states and private actors. This article critically examines the contribution of international law to global environmental governance, with particular emphasis on the legal principles, institutional mechanisms, and judicial developments that shape contemporary environmental protection. The research employs a doctrinal and analytical methodology based on the examination of relevant international legal instruments, including the Stockholm Declaration, the Rio Declaration, the United Nations Framework Convention on Climate Change, and other multilateral environmental agreements. It also considers the contribution of international and regional jurisprudence, particularly decisions concerning transboundary pollution, due diligence, environmental impact assessment, public participation, and state responsibility. The analysis focuses on the principles of prevention, precaution, polluter pays, good neighbourliness, common but differentiated responsibilities, intergenerational equity, and public participation. These principles perform multiple functions: they guide state conduct, support the interpretation of international obligations, assist courts in resolving environmental disputes, and provide a normative basis for the development of new legal duties. The article demonstrates that international environmental law has evolved into a complex system that combines environmental protection with sustainable development, human rights, procedural guarantees, and international cooperation. However, the effectiveness of this framework remains limited by fragmented enforcement mechanisms, differences in state capacity, uneven political commitment, and the predominantly non-binding character of certain international instruments. The article concludes that stronger implementation mechanisms, enhanced judicial and institutional cooperation, and more effective state accountability are necessary to transform international environmental principles into practical and enforceable guarantees of environmental protection.

Keywords: international environmental law; global environmental governance; environmental principles; state responsibility; sustainable development; environmental protection; international jurisprudence; public participation.

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1. Introduction

There has been a growing concern about the need to protect the environment, both nationally and globally. Essentially, international environmental law (IEL) is concerned with protecting the environment, principally through multilateral and bilateral international treaties.³ IEL is a subset of public international law, which is developed by states for their own use in resolving disputes between states.⁴ Within the context of sustainable development, it is concerned with the endeavour to reduce environmental pollution and the depletion of natural resources.⁵

In order to preserve and sustainably manage natural resources like forests, water, soil, and biodiversity for future generations, it aims to reduce the harm that pollutants cause to the environment, ecosystems, and human health. IEL works to accomplish these objectives by regulating activities that hurt the environment, establishing environmental protection standards and guidelines, encouraging sustainable development and resource management, fostering international cooperation and coordination, and holding states, organisations, and individuals responsible for environmental harm.

The primary aim of the IEA is to address environmental issues, including water quality, toxic and hazardous materials, climate change, soil erosion, and ozone depletion.⁶ In 1982, the United Nations Convention on the Law of the Sea was enacted. Its primary goal was to ensure the proper regulation of the oceans.⁷ This convention

³ Abbas Poorhashemi, “International Environmental Law,” in *Public International Law: A Multi-Perspective Approach*, ed. Sué González Hauck, Raffaella Kunz, and Max Milas (London: Routledge, 2024), 453–466, <https://doi.org/10.4324/9781003451327-19>.

⁴ Raphaël van Steenberghe, “The Interplay between International Humanitarian Law and International Environmental Law: Towards a Comprehensive Framework for a Better Protection of the Environment in Armed Conflict,” *Journal of International Criminal Justice* 20, no. 5 (2022): 1123–1154, <https://doi.org/10.1093/jicj/mqac062>.

⁵ Hariram Nediirippil Prakashan, Mekha Babu, Vipinraj Suganthan, and Sudhakar Kumarasamy, “Sustainalism: An Integrated Socio-Economic-Environmental Model to Address Sustainable Development and Sustainability,” *Sustainability* 15, no. 13 (2023): article 10682, <https://doi.org/10.3390/su151310682>.

⁶ Susmita Dey Sadhu, Meenakshi Garg, and Amit Kumar, “Major Environmental Issues and New Materials,” in *New Polymer Nanocomposites for Environmental Remediation*, ed. Chaudhery Mustansar Hussain and Ajay Kumar Mishra (Amsterdam: Elsevier, 2018), 77–97, <https://doi.org/10.1016/B978-0-12-811033-1.00004-4>.

⁷ Nivedita M. Hosanee, *A Critical Analysis of Flag State Duties as Laid Down under Article 94 of the 1982 United Nations Convention on the Law of the Sea* (fellowship paper, United Nations–Nippon Foundation Fellowship Programme, University of Milan, 2008), https://www.un.org/depts/los/nippon/unnnff_programme_home/fellows_pages/fellows_papers/hosanee_0910_mauritius.pdf.

addressed a number of marine pollution issues, including plastic pollution, oil spills, and the disposal of hazardous materials.⁸

To combat overfishing and encourage sustainable fisheries management, international agreements such as the Fisheries Management Agreement have been created through the IEL⁹. In order to preserve ecosystem services and biodiversity, IEL also supports the creation of maritime protected areas. The International Maritime Organisation (IMO), which IEL created, is in charge of creating and enforcing global laws to stop ship pollution. The Sustainable Development Goal 14 (Life below Water) is one of the programmes the UN has started to enhance ocean governance.

In order to stop desertification and guarantee that the environment is preserved for the benefit of both the current and future generations, IEL has tackled the problem by using a number of important tools and frameworks, such as the UNCCD, or United Nations Convention to Combat Desertification, which was ratified in 1994. A global treaty known as the UNCCD seeks to prevent desertification and lessen the effects of drought.¹⁰ In an effort to increase awareness of these problems, the UN General Assembly has also declared June 17 to be Desertification and Drought Day.¹¹

International environmental law highlights the significance of preventing and mitigating desertification through sustainable land management techniques since these issues endanger the livelihoods and food security of millions of people globally.¹² To prevent desertification, the UNCCD has also launched a campaign to support sustainable land management techniques such as conservation agriculture and agroforestry.¹³ International environmental law promotes collaboration among nations to exchange resources, knowledge, and skills to prevent desertification since desertification exacerbates climate change, which in turn causes climate change.¹⁴

Environmental rights and the environment have always been threatened by the degradation of the environment. Through a variety of tools, international environmental law has taken action to address this issue. One of the agreements is the 1987 Montreal Protocol on compounds that deplete the ozone layer, which attempts to preserve the

⁸ Ina Tessnow-von Wysocki and Philippe Le Billon, "Plastics at Sea: Treaty Design for a Global Solution to Marine Plastic Pollution," *Environmental Science & Policy* 100 (2019): 94–104, <https://doi.org/10.1016/j.envsci.2019.06.005>.

⁹ Lei Zhang, "Global Fisheries Management and Community Interest," *Sustainability* 13, no. 15 (2021): article 8586, <https://doi.org/10.3390/su13158586>.

¹⁰ Mariam Akhtar-Schuster, Lindsay C. Stringer, Graciela Metternicht, Nichole N. Barger, Jean-Luc Chotte, and German Kust, "Assessing the Impact of Science in the Implementation of the United Nations Convention to Combat Desertification," *Land* 11, no. 4 (2022): article 568, <https://doi.org/10.3390/land11040568>.

¹¹ Government of South Africa, "World Day to Combat Desertification and Drought 2025," June 17, 2025, accessed February 2, 2026, <https://www.gov.za/WorldDaytoCombatDesertificationandDrought%202025>.

¹² African Development Bank Group, "Desertification and Land Degradation," November 28, 2024, accessed February 1, 2025, <https://www.afdb.org/en/topics-and-sectors/topics/desertification-and-land-degradation>.

¹³ *Supra*.

¹⁴ International Law Editorial, "Strengthening International Cooperation in Environmental Enforcement," *World Jurisprudence*, June 1, 2024, accessed February 3, 2025, <https://worldjurisprudence.com/international-cooperation-in-environmental-enforcement/>.

ozone layer by gradually eliminating compounds that damage it, like halons and chlorofluorocarbons (CFCs).¹⁵ This protocol includes principles such as the precautionary principle, which emphasises taking preventive measures to avoid harm to the environment, even if the science is not yet definitive.¹⁶ In order to combat ozone depletion, the Montreal Protocol also encourages international collaboration through financial aid, capacity building, and technological transfer.¹⁷

The release of poisonous and hazardous materials is one of the biggest hazards to the environment and consequent environmental rights. Hazardous and toxic substances can have profound effects on the environment and human health, contaminating the air, water, and soil. To properly handle poisonous and hazardous products, many countries need technical support and capacity building. This issue has been addressed by international environmental law. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes regulates the disposal of hazardous waste. This Convention encourages the responsible handling of hazardous wastes and control their international transportation.¹⁸ The Rotterdam Convention was ratified in 1998 to regulate the safe handling of dangerous chemicals and pesticides by means of prior informed consent processes.¹⁹ In order to ensure that individuals who generate hazardous waste and pollution should pay for clean-up and rehabilitation, the polluter pays principle has also been included in a number of treaties.²⁰

Lastly, through a number of significant tools and frameworks, international environmental organisations play a critical role in biodiversity conservation and sustainable use. A Convention on Biological Diversity was ratified in 1992 with the goals of preserving biodiversity, encouraging sustainable usage, and guaranteeing just and equitable benefit distribution.²¹ Protocols like the Cartagena Protocol on Biosafety, which was established in 2000 and aims to guarantee the safe handling, transportation, and use of living modified organisms (LMOs) that could negatively impact biodiversity, are in place to support this Convention.²²

¹⁵ *Montreal Protocol on Substances that Deplete the Ozone Layer*, adopted September 16, 1987, entered into force January 1, 1989, 1522 UNTS 3, <https://treaties.un.org/doc/Publication/UNTS/Volume%201522/volume-1522-I-26369-English.pdf>.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal*, adopted March 22, 1989, entered into force May 5, 1992, 1673 UNTS 57, <https://treaties.un.org/doc/Publication/UNTS/Volume%201673/v1673.pdf>.

¹⁹ *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*, adopted September 10, 1998, entered into force February 24, 2004, 2244 UNTS 337, https://treaties.un.org/pages/ViewDetails.aspx?chapter=27&mtmsg_no=XXVII-14&src=TREATY.

²⁰ The Polluter pays principle.

²¹ *Convention on Biological Diversity*, adopted May 22, 1992, opened for signature June 5, 1992, entered into force December 29, 1993, 1760 UNTS 79, https://treaties.un.org/pages/ViewDetails.aspx?chapter=27&mtmsg_no=XXVII-8&src=TREATY.

²² *Cartagena Protocol on Biosafety to the Convention on Biological Diversity*, adopted January 29, 2000, entered into force September 11, 2003, 2226 UNTS 208, <https://www.cbd.int/doc/legal/cartagena-protocol-en.pdf>.

The primary goal of international law's procedural and institutional regulations, or IELs, is environmental protection.²³ Protecting non-human elements of the natural environment, such as plants, animals, water, the atmosphere, and systems that include all or some of these elements in addition to people, is one of IEL's primary goals.²⁴ In accordance with IEL, states must regulate activities that fall under their control in order to prevent environmental damage to areas outside of their control.²⁵ Judicial rulings, universal legal principles acknowledged by civilised states, international conventions (treaties), and international custom, which serve as proof of a widespread practice recognised as law, are among the origins of international environmental law.

Notable cases such as the *Trail Smelter* case have contributed significantly to the development of international law. In this case, Sulphur dioxide and other pollutants were released by the Canadian smelter, harming property, livestock, and crops in the neighbouring US state of Washington. The US government complained to Canada, claiming that US citizens and their property were being harmed by the smelter's emissions.²⁶ A tribunal created under the 1925 Convention for the Protection of the Waters of the Columbia River arbitrated the matter, and in 1941 it found in favour of the United States, holding Canada accountable for the harm caused by the emissions from the Trail Smelter.²⁷ The idea that a state is liable for environmental damage done to another state was established by this case. The court determined that Canada was responsible for damages resulting from sulphur dioxide emissions from a British Columbian smelter that impacted US agricultural fields.²⁸

The notion of due diligence in preventing environmental harm was established in the Corfu Channel case, which is another example. Two British cruisers, HMS Saumarez and HMS Voltage, detonated mines in the Corfu Channel, a slender strait separating the Albanian mainland from the island of Corfu. 44 people lost their lives in the tragedy, and the ships suffered serious damage. Albania was accused by the United Kingdom of being the cause of the catastrophe and of laying the mines. Albania denied having anything to do with the mine laying. The primary question was whether Albania was at fault for the harm the mines in the Corfu Channel had done to the British vessels. Another question was whether Albania had violated its duty to protect other states under international law. Albania was held accountable by the court for failing to take appropriate action to stop mines from being laid in its territorial seas, which caused damage to British warships.²⁹

It was decided in the *Lac Lanoux Arbitration* case that prior consultation and

²³ Ibid.

²⁴ Anshu Singh, "Principles and Development of International Environmental Law," *Pen Acclaims* 10 (May 2020): 2, <https://penacclaims.com/wp-content/uploads/2020/06/Anshu-Singh.pdf>.

²⁵ Ved P. Nanda, "Trends in International Environmental Law," *California Western International Law Journal* 20, no. 2 (1990): 187–205, <https://scholarlycommons.law.cwsl.edu/cwilj/vol20/iss2/4/>.

²⁶ *Trail Smelter Case (United States of America v. Canada)*, awards of April 16, 1938, and March 11, 1941, 3 *Reports of International Arbitral Awards* 1905, https://legal.un.org/riaa/cases/vol_III/1905-1982.pdf.

²⁷ Ibid.

²⁸ Ibid.

²⁹ *Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania)*, Preliminary Objection, Judgment, 1948 I.C.J. 15 (Mar. 25), <https://www.icj-cij.org/node/103097>.

consultation are essential when dealing with transboundary environmental issues. In order to produce hydroelectric power, France proposed in 1957 to divert the waters of Lake Lanoux, a transboundary lake shared with Spain. The diversion might have had an impact on Spanish territory because it would have drastically changed the lake's normal water flow.³⁰ The court ruled that France could not divert Lake Lanoux waters without first consulting Spain because doing so would impact Spanish interests. The tribunal concluded that prior consultation and negotiation between the affected states are crucial in cases involving transboundary environmental issues; and the tribunal established the principle that states have a duty to cooperate and consult with each other on matters that may affect their shared environment.

By introducing fundamental concepts like state accountability, due diligence, prior consultation, and sustainable development, these court decisions have paved the way for the growth of international environmental law. The evolution of international environmental law has also been influenced by a number of universal legal principles. One of the key principles that has significantly influenced the evolution of international law is sovereignty and state accountability. This principle holds that states are in charge of their resources and territory and are accountable for any environmental damage they cause to neighbouring states or the global commons.³¹ In terms of the principle of good neighbourliness, States have an obligation to protect their neighbours from harm.³²

The principle of sustainable development has also influenced international law through a variety of declarations and treaties. This principle states that social justice, environmental preservation, and economic growth should all be balanced.³³ The principle of intergenerational equity, which asserts that the present generation should not jeopardise the ability of future generations to meet their own requirements, is also established in the Rio Declaration (1992) and the Framework Convention on Climate Change (1992).³⁴ Treaties, agreements, and other legal documents have been developed based on these universal legal principles, which have served as the cornerstone of international environmental law.

2. International Environmental Law Principles

Various international law principles have been formulated over the years between states to ensure that environmental rights are protected. These principles place a duty on states to prevent environmental harm, while others oblige states to cease or minimise activities that cause environmental degradation. Many of these principles were laid down in the Rio Declaration on Environment and Development, which is one of the most important products of the United Nations on Environment and Development

³⁰ *Lake Lanoux Arbitration (France v. Spain)*, Award of November 16, 1957, 12 *Reports of International Arbitral Awards* 281, 24 I.L.R. 101, https://legal.un.org/riaa/cases/vol_xii/281-317_lanoux.pdf.

³¹ *Supra*.

³² *Supra*.

³³ *Rio Declaration on Environment and Development*, adopted June 14, 1992, UN Doc. A/CONF.151/26 (Vol. I), annex I, <https://www.un.org/esa/documents/ga/conf151/aconf15126-1.htm>.

³⁴ *Ibid*.

(UNCED) 1992.³⁵ These principles include principles such as prevention, precautionary, polluter pays, common but differentiated responsibility, and the participation principle. These principles consist of various functions to ensure that environmental rights are advocated and protected.

Firstly, when seen from the perspective of the relations between international environmental law and other branches of international law, these principles perform a conciliation function. The conciliation function was proved in the case of *Hungary v. Slovakia*. In 1977, Hungary and Czechoslovakia (now Slovakia) signed the Gabčíkovo-Nagymaros Project, a deal to build a chain of dams on the Danube River. The initiated project had to perform activities such as preventing floods and providing hydroelectric power. Potential effects that could affect the Danube River were raised, which eventually led to a dispute. A dispute arose between Hungary and Slovakia when Slovakia continued to work on the project, despite Hungary's complaints. Ultimately, Hungary filed a complaint against Slovakia concerning the issue at the International Court of Justice 9 (ICJ).

The International Court of Justice rendered its ruling on September 25, 1997. The International Court of Justice ruled that Slovakia had violated the 1977 convention by moving forward with the project without Hungary's approval. The ICJ acknowledged that the project had substantial effects on the environment, including alterations to the water quality and ecology of the Danube River

The court also looked at the significance of sustainable development and the necessity of striking a balance between environmental preservation and economic growth. The International Court of Justice ruled that Slovakia and Hungary shared responsibility for the project's environmental harm.³⁶ Ultimately, the ICJ mandated that Hungary and Slovakia to negotiate a new project agreement that takes into consideration sustainable development and environmental concerns. In order to ascertain how the project will affect the Danube River and its ecosystem, the ICJ advised Hungary and Slovakia to carry out a joint environmental impact assessment.³⁷

Second, these principles perform an architectural function in that they can lay the foundations of an environmental regime. For example, the climate change regime has been built upon the principle of common but differentiated responsibilities.³⁸ According to this principle, States should take on varying degrees of responsibility for combating climate change because they have varying capacities, historical emissions, and development demands. In order to ensure that states with higher historical emissions and economic capacity assume greater responsibility for lowering

³⁵ United Nations Conference on Environment and Development, *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992*, UN Doc. A/CONF.151/26 (Vol. I) (August 12, 1992), annex I, "Rio Declaration on Environment and Development," <https://www.un.org/esa/documents/ga/conf151/aconf15126-1.htm>.

³⁶ *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, 1997 I.C.J. 7 (Sept. 25), <https://www.icj-cij.org/node/103193>.

³⁷ Ibid.

³⁸ Per Josephson, *Common but Differentiated Responsibilities in the Climate Change Regime: Historic Evaluation and Future Outlooks* (master's thesis, Stockholm University, 2017), <https://urn.kb.se/resolve?urn=urn:nbn:se:su:diva-145767>.

greenhouse gas emissions and supporting poorer nations financially and technologically, the CBDR concept is crucial.³⁹ Since the UNFCCC's implementation, the principle of common but differentiated obligations has served as a pillar of the global climate change system.⁴⁰

It is reflected in the UNFCCC, which recognises the notion of "common but differentiated responsibilities" as a foundation for cooperation among parties and states that the majority of historical and present global emissions of greenhouse gases have come from affluent nations.⁴¹ It acknowledges that states have varying historical obligations, varying capacities to adapt to climate change, and varying development agendas.⁴² The same regime serves to illustrate a fourth function of concepts and principles, namely, their interpretation function.⁴³ Third, and most significantly, they provide guidance for courts and tribunals in the process of interpreting international rules and obligations and in filling legal gaps. A particular cogent example is the judgment of the International Court of Justice (ICJ) in the 1997 *Gabčíkovo-Nagymaros* case.

The ICJ relied upon the principle of ecological necessity as a criterion for interpreting and applying the law of state responsibility.⁴⁴ According to environmental law and ethics, human activity should not damage or eradicate ecosystems or species, even if doing so would limit human interests or economic development. This principle is known as the principle of ecological necessity.⁴⁵ This concept acknowledges that ecosystems offer vital services that are vital to human existence and well-being, including climate management, soil creation, and clean air and water.

It also recognises that the ecosystem, regardless of its value to humans, have intrinsic worth and ought to be preserved for its own sake. When making decisions about the environment, the ecological necessity concept is frequently used to put the preservation of ecosystems ahead of human interests, and mandate that human actions be planned and carried out in a way that reduces damage to ecosystems, guaranteeing

³⁹ *Paris Agreement*, adopted December 12, 2015, entered into force November 4, 2016, arts. 2(2), 4(4), 9, 10, and 11, UN Doc. FCCC/CP/2015/10/Add.1, annex, https://unfccc.int/sites/default/files/resource/paris_agreement_publication.pdf.

⁴⁰ Jacqueline Peel, "Foreword to the TEL Fifth Anniversary Issue: Re-evaluating the Principle of Common But Differentiated Responsibilities in Transnational Climate Change Law," *Transnational Environmental Law* 5, no. 2 (2016): 245–254, <https://doi.org/10.1017/S2047102516000327>.

⁴¹ Lavanya Rajamani, "The Cancun Climate Agreements: Reading the Text, Subtext and Tea Leaves," *International and Comparative Law Quarterly* 60, no. 2 (2011): 499–519, <https://doi.org/10.1017/S0020589311000078>.

⁴² Meinhard Doelle, "The Heart of the Paris Rulebook: Communicating NDCs and Accounting for Their Implementation," *Climate Law* 9, nos. 1–2 (2019): 3–20, <https://doi.org/10.1163/18786561-00901002>.

⁴³ *United Nations Framework Convention on Climate Change*, adopted May 9, 1992, entered into force March 21, 1994, 1771 UNTS 107, <https://treaties.un.org/doc/Publication/UNTS/Volume%201771/v1771.pdf>.

⁴⁴ *Supra*.

⁴⁵ Aishwarya Agrawal, "Sustainable Development in Environmental Law," *LawBhoomi*, September 30, 2023, accessed January 7, 2026, <https://lawbhoomi.com/sustainable-development-in-environmental-law/>.

the preservation and restoration of ecosystem services.⁴⁶

This principle is closely related to other environmental principles, such as the precautionary principle, the polluter pays principle, and the principle of intergenerational equality. In this case, the ICJ applied the criterion of ecological necessity in numerous ways. To ascertain the project's possible environmental effects, the ICJ underlined the significance of performing environmental impact assessments.⁴⁷ The precautionary principle, which maintains that states should take preventive action to avoid environmental harm even if the investigation is not yet conclusive, was also applied. Last but not least, the ICJ acknowledged the significance of sustainable development and the necessity of striking a balance between environmental preservation and economic growth.⁴⁸

Lastly, these principles can have a decision-making function or, in other words, operate as primary norms. In international environmental law, for instance, the precautionary principle is a fundamental standard that directs decision-making. Even though the science is not yet conclusive, it maintains that states should take preventive action to avoid environmental harm.⁴⁹ The polluter pays principle is a fundamental standard that holds the person who causes pollution accountable for any harm to the environment. When it comes to culpability and compensation for environmental harm, this principle serves as guidance.⁵⁰

Just to cite another example, the *Trail Smelter* case, a leading environmental dispute, was decided on the basis of the no-harm principle.⁵¹ In 1941, an arbitral tribunal rendered a significant decision in the *Trail Smelter* case, which dealt with international environmental law. The case concerned air pollution from a smelter in Trail, British Columbia, Canada, which sparked a dispute between the United States and Canada.⁵² In Trail, British Columbia, Canada, there was a smelter run by the Consolidated Mining and Smelting Company of Canada (Cominco). Significant air pollution was generated by sulphur dioxide emissions from the smelter.⁵³ Crops, trees, and soil suffered severe damage as a result of the sulphur dioxide emissions from the *Trail Smelter* drifting across the border into the US state of Washington. In Washington State, farmers, ranchers, and other impacted parties filed many complaints with the US government. To resolve the matter, the Canadian government was contacted by the U.S. government. Despite their diplomatic efforts, the two governments were unable to come to a consensus.⁵⁴

Both countries decided to approach an arbitral tribunal in order to settle the

⁴⁶ Ibid.

⁴⁷ Supra.

⁴⁸ Supra.

⁴⁹ Valérie Beloin, *Public Policies Guided by the Precautionary Principle* (National Collaborating Centre for Healthy Public Policy, May 2009), https://www.nccchpp.ca/docs/VBeloinAnC_MEP.pdf.

⁵⁰ Oversea Nabileyo, *The Polluter Pays Principle and Environmental Liability in South Africa* (LL.M. mini-dissertation, North-West University, 2009), <https://hdl.handle.net/10394/4712>.

⁵¹ Supra.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

matter. The tribunal consisted of 3 member countries. Each of these member countries belonged to the countries involved in the dispute, whereas the last one was collectively appointed by both countries.⁵⁵ Canada contended that the sulphur dioxide emissions were not seriously harming people, whereas the United States provided evidence of the harm the emissions were creating.⁵⁶ The tribunal determined that Canada was responsible for the harm brought by the Trail Smelter's sulphur dioxide emissions.

The United States was given damages by the tribunal for the damage caused to Washington State's land, woods, and crops. The tribunal ruled that Canada must take action to lower the Trail Smelter's emissions of sulphur dioxide. The notion of state liability for environmental harm caused to another state was established by the Trail Smelter case as a result. The case made it clear that governments must work together to address transboundary environmental challenges.⁵⁷

These principles are not only useful for the courts in terms of interpretation and decision-making but also useful as advocacy tools for lawyers and non-lawyers to advocate for environmental rights. Therefore, in conclusion, these principles can assist in interpreting obligations, defining parameters for new obligations, and filling legal gaps.⁵⁸ These principles operate as primary norms, guiding decision-making in international environmental law and shaping the conduct of states and individuals.

2.1. Prevention

States have a duty to prevent environmental harm that will result in the violation of environmental rights. Environmental damage is typically costly, challenging, or impossible to reverse after it has happened. Therefore, preventing environmental damage in the first place is always a sensible decision. Entities and individuals must act according to this principle before any harm is done. The African and European supervisory mechanisms have articulated duties of prevention and provided that: when the State becomes aware of an environmental risk, it must adopt positive measures of protection, including effective regulation as the case may be, in order to prevent infringements of environmental rights. In addition, the State must anticipate potential risks associated with industrial activities permitted in its territory by gathering and disclosing relevant environmental information or requiring an environmental impact assessment (EIA). At a minimum, the State is responsible for ensuring that constitutional rights as well as domestic environmental laws and standards are effectively enforced, and that court orders and decisions are complied with.⁵⁹

This means that the state's duty to protect environmental rights is not only a

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Lluís Paradell-Trius, "Principles of International Environmental Law: An Overview," *Review of European Community & International Environmental Law* 9, no. 2 (2000): 96–97, <https://doi.org/10.1111/1467-9388.00240>.

⁵⁹ United Nations Environment Programme and Center for International Environmental Law, *UNEP Compendium on Human Rights and the Environment: Selected International Legal Materials and Cases* (2014), accessed February 1, 2026, <https://wedocs.unep.org/20.500.11822/9943>.

moral obligation but also a legal requirement, as enshrined in various international and domestic laws. The EIA process helps identify potential environmental risks and provides an opportunity for public participation and comment. In order for effective enforcement of environmental laws to take place, adequate institutional capacity, resources, and political support are required.

States are further obliged to prevent environmental degradation in other states. The activities of one state in its territory should not cause environmental harm to other states. This principle goes together with the principle of good neighbourliness. Although the state enjoys sovereignty, it is prohibited from exercising its powers in a manner that impairs the environment or violates the territorial integrity or sovereignty of another state. Therefore, the state must make sure that whatever activities it takes on its territory do not harm the environment of another state's territory in order to uphold the principle of good neighbourliness.⁶⁰ The state's duty to maintain good neighbourliness, or more accurately, the duty to protect the environment of the surrounding states, applies not only to state-conducted operations but also to private citizen actions within that state.⁶¹ This was supported by the court's ruling in the *Trail Smelter case (United States v. Canada)*, which stated that a state cannot permit the use of its territory in a way that endangers the territory of another state.⁶²

A lead and zinc smelter held by the Consolidated Mining and Smelting Company of Canada (Cominco) in Trail, British Columbia, Canada, was the source of the disagreement in this case. In the US state of Washington, the smelter released a lot of sulphur dioxide and other pollutants, which seriously harmed animals, crops, and forests. The tribunal determined that, notwithstanding the fact that the *Trail Smelter* was run by a private enterprise, Canada was liable for the harm brought about by its emissions.⁶³

The underlying principle of legislation controlling the use of pesticides and the production, movement, handling, storage, and disposal of hazardous waste is known as the preventive principle. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, which aimed to reduce the production of hazardous waste and prevent unlawful dumping, was similarly built on this principle.⁶⁴

2.2. Precaution

This principle places emphasis on taking pre-emptive action to address possible

⁶⁰ Dyondzo Walter Gaveni, *An Analysis of the Environmental Liability for Breach of the Duty of Care for the Environment in South Africa* (LL.M. dissertation, University of Limpopo, 2021), <https://hdl.handle.net/10386/4184>.

⁶¹ Ibid.

⁶² Supra.

⁶³ Ibid.

⁶⁴ Britannica, "Principles of Environmental Law," in "Environmental Law," *Encyclopaedia Britannica*, last modified August 18, 2024, accessed February 15, 2026, <https://www.britannica.com/topic/environmental-law/Principles-of-environmental-law>.

hazards to the environment and the general population.⁶⁵ It's challenging to estimate the likelihood of environmental damage. Our understanding of environmental and ecological processes is built upon a growing body of scientific inquiry.⁶⁶ According to the precautionary principle, proactive steps should be taken to prevent serious or irreversible harm to the ecosystem and human health. Moreover, delaying cost-effective preventive measures due to uncertainty about the likelihood or extent of the harm is not acceptable.⁶⁷ Judge Cançado Trindade, in the case of Uruguay and Argentina, commenting on the precautionary principle, stated that: the precautionary principle is not to be equated with over-regulation, but more properly with reasonable assessment in the face of probable risks and scientific uncertainties. This may take the form of carrying out complete environmental impact assessments, and of undertaking further studies on the environmental issues.⁶⁸

The principle of precaution has also been incorporated in a number of international instruments, one of which is the Rio Declaration, where Principle 15 provides that: 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.⁶⁹ UNFCCC, particularly Article 3.3, also mandates states take proactive steps to predict, stop, or reduce the causes of climate change and lessen its negative impacts. Delays in taking action due to incomplete scientific certainty are not acceptable when there are risks of significant or permanent harm.⁷⁰

The guiding principle says that even if we don't fully understand the impacts of a particular activity, we should nonetheless take preventive measures when there are real threats of harm. Stated differently, the precautionary principle integrates the moral obligation to avert harm with the practical constraints of scientific comprehension. It recognises that the world is made up of intricately interwoven systems that are resistant to complete comprehension and vulnerable to harm from human activity. Precaution prioritises safeguarding these delicate systems and calls for humility, respect, compassion, empathy, and restraint. As a result, the principle consists of three main components: resolving scientific ambiguity, anticipating, avoiding, identifying harm, and exercising prudence.⁷¹

⁶⁵ Britannica, "Precautionary Principle," *Encyclopaedia Britannica*, last modified June 15, 2023, accessed February 15, 2026, <https://www.britannica.com/topic/precautionary-principle>.

⁶⁶ Surendra Bhandari, "International Environmental Instruments," *SSRN Electronic Journal* (2011): 1–17, <https://doi.org/10.2139/ssrn.1736402>.

⁶⁷ Theresa McClenaghan, "Precautionary Principle," in *Encyclopedia of Quality of Life and Well-Being Research*, ed. Alex C. Michalos (Dordrecht: Springer, 2014), 5003–5016, https://doi.org/10.1007/978-94-007-0753-5_2238.

⁶⁸ *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, 2010 I.C.J. 14 (Apr. 20), <https://www.icj-cij.org/node/103232>.

⁶⁹ *Rio Declaration on Environment and Development*.

⁷⁰ *United Nations Framework Convention on Climate Change*.

⁷¹ Marco Martuzzi and Joel A. Tickner, eds., *The Precautionary Principle: Protecting Public Health, the Environment and the Future of Our Children* (Copenhagen: World Health Organization. Regional Office

2.3. Polluter Pays Principle

The well-recognised principle known as the "polluter pays" principle states that individuals who cause pollution should be responsible for the expenses associated with controlling it to avoid harm to the environment and public health.⁷² For example, the safe disposal of a potentially toxic material produced as a by-product of a business's operations is often the responsibility of the factory. This approach is based on the idea that it is unfair to place the costs of pollution on society; rather, those who cause environmental harm should be held accountable for their actions and made whole by minimising and repairing the harm.⁷³ The principle is now enshrined in Principle 16 of the Rio Declaration, which provides that: national authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

This principle plays a major role in tackling environmental challenges, as it has been in the case of *Homestake Mining Company of California vs. Mariano Lake*, and India's 1928 Air Prevention and Control of Pollution Act. The issue in the *Homestake Mining Company of California v. Mariano Lake* case concerned the mining operations and contamination of water sources. Due to pollutants that leaked into Mariano Lake and Smith Lake and damaged the ecology on the Navajo Nation territory, the Homestake Mining Company was sued. The resolution was based on the polluter pays principle, which holds the firm financially responsible for clean-up and mitigation measures.⁷⁴

The goal of India's 1928 Air Prevention and Control of Pollution Act was to solve the issue of air pollution in the country's increasingly industrialising cities. The Act included provisions implementing the polluter pays principle and established regulatory mechanisms to limit emissions from automobiles and industry. Businesses that did not follow emission requirements risked penalties and fines, which pushed for compliance and created a business community culture of environmental responsibility.⁷⁵

for Europe, 2004), <https://iris.who.int/handle/10665/346211>.

⁷² Grantham Research Institute on Climate Change and the Environment, "What Is the Polluter Pays Principle?," London School of Economics and Political Science, July 18, 2022, accessed September 22, 2024, <https://www.lse.ac.uk/granthaminstitute/explainers/what-is-the-polluter-pays-principle/>.

⁷³ Katarina Ruhland, "What Is the Polluter Pays Principle and How Can It Be Used in Climate Policy?," *Earth.Org*, March 28, 2024, accessed February 22, 2026, <https://earth.org/explainer-what-is-the-polluter-pays-principle-and-how-can-it-be-used-in-climate-policy/>.

⁷⁴ United States Environmental Protection Agency, *In the Matter of Black Jack and Mac Mine Sites, New Mexico: Homestake Mining Company of California, Respondent*, Administrative Settlement Agreement and Order on Consent for Interim Removal Action, U.S. EPA Region 9, CERCLA Docket No. 2014-06 (August 27, 2014), <https://www.epa.gov/sites/default/files/2014-12/documents/homestake-aoc-2014.pdf>.

⁷⁵ *The Air (Prevention and Control of Pollution) Act, 1981*, Act No. 14 of 1981 (India), enacted March 29, 1981, effective May 16, 1981, https://www.indiacode.nic.in/bitstream/123456789/12658/1/the_air_%28prevention_and_control_of_pollution%29_act_1981_no._14_of_1981_date_29.03.1981.pdf.

Greenhouse gas emissions are categorised as a form of pollution because they can alter the climate and contribute to outdoor or ambient air pollution, which the World Health Organisation estimates causes 4.2 million deaths annually. Methane and carbon monoxide are examples of greenhouse gases that can create ground-level ozone, a major ingredient in smog.⁷⁶ According to WHO (2018), this pollution has serious repercussions since it can worsen respiratory diseases, including asthma and chronic obstructive pulmonary disease (COPD), which in turn raises mortality rates.

Particulate matter (PM), which can lead to respiratory disorders and other health concerns, is a major contributor to this statistic and is created by greenhouse gas emissions.⁷⁷ Furthermore, NO₂ is released into the atmosphere through industrial and transportation-related nitrogen dioxide emissions, which contribute to air pollution and adverse health impacts. Long-term exposure to air pollution raises the risk of heart attacks, strokes, and other cardiovascular events, which makes the cardiovascular disease risk more concerning.⁷⁸

Utilising a carbon price is necessary to apply the polluter pays principle to greenhouse gas emitters. This means taxing greenhouse gas emissions at an amount that accounts for the possible costs of climate change in the future. This forces emitters to internalise both the pollution they produce and their costs.⁷⁹

2.4. Common but Differentiated Responsibility

Numerous Multilateral Environmental Agreements (MEAs) require that states that are members take action and participate in order to address environmental issues. However, the truth is that not all nations contribute the same to environmental degradation. Environmental degradation has varied throughout nations. Developed nations have generally harmed the environment more severely, particularly throughout their industrialisation processes. It makes sense that different nations cannot be held accountable for the same kind of environmental harm caused by different actions in the past. Resources and technological advancements also vary throughout countries.

As a result, the MEAs have enacted laws mandating that all nations share to a duty for environmental protection while also permitting differentiating obligations for tackling environmental issues according to the degree to which each nation contributes to environmental harm. These MEAs include the United Nations Framework Convention on Climate Change (UNFCCC), Kyoto Protocol, Paris Agreement, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The goal of the UNFCCC is to keep atmospheric concentrations of greenhouse gases stable enough to avoid harmful human intervention with the climate

⁷⁶ World Health Organization, "Climate Impacts of Air Pollution," under "Air Quality, Energy and Health," accessed January 10, 2024, <https://www.who.int/teams/environment-climate-change-and-health/air-quality-energy-and-health/health-impacts/climate-impacts-of-air-pollution>.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Paolo Agnolucci et al., "Measuring Total Carbon Pricing," *The World Bank Research Observer* 39, no. 2 (2024): 227–258, <https://doi.org/10.1093/wbro/lkad009>.

system.⁸⁰

The Kyoto Protocol establishes legally binding goals for developed nations to reduce their greenhouse gas emissions.⁸¹ The protocol establishes a distinction between developed and developing countries, with the former committing to stricter carbon reduction goals.⁸² Countries are arranged according to their capabilities to manage and control trade in endangered species in terms of Convention of Endangered Species of Wild and Fauna and Flora 1973.⁸³ This means that countries do not share the same environmental liability when it comes to the mitigation of environmental damage.⁸⁴

This principle has been recognised in a number of international instruments, one of them being the Rio Declaration, which provides that: States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the earth's ecosystem. In view of 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 for sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.⁸⁵

This principle is also enshrined in Article 3(1) of the UNFCCC in the following terms: the Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.⁸⁶

This principle is important because it acknowledges that all states have a universal responsibility to address a shared human problem while also differentiating the specifics of this commitment according to the capabilities and circumstances of each individual state.

2.5. The Principle of Participation

A key idea in environmental law and governance is the principle of participation, which highlights how crucial it is to include all parties involved in environmental decision-making, including individuals, groups, and communities.⁸⁷ This principle has been affirmed in Principle 10 of the Rio Declaration, which provides

⁸⁰ *United Nations Framework Convention on Climate Change*.

⁸¹ *Kyoto Protocol to the United Nations Framework Convention on Climate Change*, adopted December 11, 1997, entered into force February 16, 2005, 2303 UNTS 162, <https://unfccc.int/resource/docs/convkp/kpeng.pdf>.

⁸² *Ibid*.

⁸³ *Supra*.

⁸⁴ Britannica, "Common but Differentiated Responsibilities (CBDR)," *Encyclopaedia Britannica*, accessed February 22, 2026, <https://www.britannica.com/topic/common-but-differentiated-responsibilities>.

⁸⁵ Principle 7 of the *Rio Declaration*.

⁸⁶ Article 3 (1) of the *United Nations Framework Convention on Climate Change*.

⁸⁷ Jonas Ebbesson, "The Notion of Public Participation in International Environmental Law," *Yearbook of International Environmental Law* 8, no. 1 (1997): 51–97, 51, <https://doi.org/10.1093/yiel/8.1.51>.

that: environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.⁸⁸

Three primary components were introduced from this principle, which are the right to judicial remedy, the right to participate in the decision-making process on environmental problems, and the right to obtain environmental information. Through democratic control over environmental decision-making, this definition indicates that public participation is crucial not just as a distributive strategy but also, to some extent, as a preventive instrument. In the *Taskin and Others v. Turkey* case, the court acknowledged the value of public participation and declared that it is essential to the protection and advancement of the rights to life, health, family, private life, physical integrity, and private property that public participation in decision-making and access to justice in environmental matters plays.⁸⁹

In a report of the Inter-American Commission regarding the Situation of Human Rights in Ecuador, it stated that: in order to guard against environmental conditions which had an adverse effect on human health, individuals should have access to information, participation in relevant decision-making processes, and judicial recourse.

The Commission suggested that action be taken by the Ecuadorian government to resolve the issue and stop further oil contamination that could endanger the lives and health of the Oriente community. The proposals placed a strong emphasis on the necessity of ensuring public engagement in information sharing and decision-making processes that directly affect the environment.⁹⁰ In conclusion, public participation allows citizens to be involved in decisions that affect their environmental rights and ensures that their rights are not violated in the course of decision-making. These concepts continue to direct international initiatives to safeguard the environment and advance sustainable development.

3. International Instruments

3.1. The Rio Declaration on Environmental Rights

The Rio Declaration is a product of a successful United Nations conference,

⁸⁸ Principle 10 of the *Rio Declaration*.

⁸⁹ *Taskin and Others v. Turkey*, App. No. 46117/99, 42 E.H.R.R. 50 (2006), <https://hudoc.echr.coe.int/eng?i=001-67401>.

⁹⁰ Inter-American Commission on Human Rights, *Report on the Situation of Human Rights in Ecuador*, OEA/Ser.L/V/II.96, Doc. 10 rev. 1 (April 24, 1997), https://cidh.oas.org/countryrep/ecuador-eng/index%20-%20ecuador.htm?utm_source=chatgpt.com.

adopted by more than 175 countries at the United Nations Conference on Environment and Development (UNCED). The declaration is one of the significant instruments that recognises environmental rights and has adopted various measures in its principles to ensure that these rights are protected at all costs. The Rio Declaration proclaims 27 principles. The first principle states that sustainable development primarily concerns human beings, who are entitled to live healthy and productive lives in harmony with nature.⁹¹

This principle entitles everyone to environmental rights by placing people at the centre and mandating a healthy environment. All states must ensure that during the course of state development, human beings are considered before everything else and must make it their first priority that the environment remains healthy for everyone. One of the principles that promotes the protection of environmental rights and the environment is Principle 11, which states that:

States shall enact effective environmental legislation.⁹²

Principle 11 creates an obligation that states will enact environmental legislation. This legislation must be in line with principle 1, which puts human beings at the centre, and in doing so must protect environmental rights.

Other principles include formulations of the precautionary principle. Principle 15 states that: 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.⁹³

The precautionary measures ensure that activities that will have an environmental impact are carefully assessed to prevent environmental harm in the process of development, which will end up violating environmental rights. Lastly, principle 16 encourages the adoption of the polluter pays principle by stating that: national authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.⁹⁴

This principle ensures that those who cause environmental harm due to their activities must pay the costs of environmental restoration, and the principle of polluter pays will be adopted if it is in the best interest of the public.

3.2. The Stockholm Declaration of 1972

This Declaration is the first United Nations declaration on the global environment. It consists of 26 principles and led to the creation of the United Nations Environment Programme (UNEP), which laid the foundation for future global environmental governance. Amongst the 26 principles, the declaration consists of

⁹¹ Principle 1 of the *Rio Declaration*.

⁹² Principle 11 of the *Rio Declaration*.

⁹³ Principle 15 of the *Rio Declaration*.

⁹⁴ Principle 16 of the *Rio Declaration*.

principles that mandate the protection of environmental rights. One of the principles is Principle 1, which states that: man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.⁹⁵

Principle 2 of the declaration further provides that: the natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.⁹⁶

From these principles, the declaration placed environmental rights at the forefront of international concerns and priorities by affording human beings the right to a healthy environment as a fundamental right and obliging everyone to protect the environment for the benefit of the present and future generations. Human health proves to be more valuable than anything else, as it has been provided by principle 7: States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.⁹⁷

According to this principle, the prevention of pollution should not only be on land but also be extended into the seas to prevent any toxic substances that may cause health issues or harm the living resources and marine life. As it has been provided by Principle 2 of the declaration that protection and improvement of the human environment is a major issue that affects the well-being of people and economic development throughout the world, it is the urgent desire of the people of the whole world and the duty of all governments.⁹⁸

3.3. The United Nations Framework Convention on Climate Change

The UNFCCC plays a vital role in protecting environmental rights. Its primary objective is to prevent dangerous human interference with the climate system by stabilising greenhouse gas concentrations at a level that prevents harm to the environment and human health.⁹⁹ Its key principles include the precautionary principle, intergenerational equity, and a human rights-based approach. The precautionary principle promotes taking precautionary measures to prevent environmental harm, even in the face of scientific uncertainty. In terms of intergenerational equity, the convention

⁹⁵ Principle 1 of the *Stockholm Declaration*, United Nations, “Declaration of the United Nations Conference on the Human Environment,” in *Report of the United Nations Conference on the Human Environment, Stockholm, 5–16 June 1972*, UN Doc. A/CONF.48/14/Rev.1 (New York: United Nations, 1973), 3–5, <https://digitallibrary.un.org/record/523249>.

⁹⁶ Principle 2 of the *Stockholm Declaration*.

⁹⁷ Principle 7 of *Stockholm Declaration*.

⁹⁸ Proclaim 2 of the *Rio Declaration*.

⁹⁹ *United Nations Framework Convention on Climate Change*.

recognises the need to protect the climate system for future generations. Human rights are emphasised and incorporated in the UNFCCC, which stipulates that these rights need to be well-protected and promoted.¹⁰⁰

It further suggests ways in which these rights can be protected and promoted, which includes the review of decisions and accurate reporting of any decision taken. When it comes to reporting, countries must submit reports pertaining to climate change policies and greenhouse gases. The reports will ensure that there is transparency and accountability.¹⁰¹ Developed countries should provide financial support to developing countries to address climate change issues.¹⁰² In conclusion, the UNFCCC promotes the protection of environmental rights and requires that countries collaborate in order to address climate change issues. By incorporating human rights principles and mechanisms, the convention ensures that climate action prioritises the well-being of people and the planet.

3.4. The European Convention on Human Rights

The European Convention on Human Rights plays a significant role in protecting environmental rights. This convention is concerned with salient environmental issues such as pollution caused by industrial activities and individual activities. It is also concerned with noise pollution and toxic hazardous chemicals that may affect the health and well-being of people. Some people have used it in their countries to pressure governments to take initiatives to resolve the climate change issues and environmental degradation.

Successive Council of Europe presidencies and various other organs of the organisation have called for existing legal tools to be further strengthened in order to help European states deal with the considerable environmental challenges that we all face.¹⁰³ For instance, the European Court of Human Rights in the case of *Swiss Climate Senior Women and Others v. Switzerland* has ruled that member states are responsible for the effects of man-made and natural environmental disasters under the right to life.¹⁰⁴ This case has developed international law to a greater extent in a way that it established those excessive operations that amount to pollution and nuisance violate the right to the home and private life.¹⁰⁵

The court went further to state that community engagement in decision-making

¹⁰⁰ Supra.

¹⁰¹ United Nations Climate Change, "Reporting and Review," accessed February 7, 2026, <https://unfccc.int/reporting-and-review>.

¹⁰² Ibid.

¹⁰³ Council of Europe, "New Factsheet on the Execution of ECHR Judgments Concerning Environment," October 20, 2020, accessed February 23, 2026, <https://www.coe.int/en/web/portal/-/new-factsheet-on-the-execution-of-echr-judgments-concerning-environment>.

¹⁰⁴ *Verein KlimaSeniorinnen Schweiz et al. v. Federal Department of the Environment, Transport, Energy and Communications (DETEC)*, Judgment 1C_37/2019, BGE 146 I 145 (Swiss Federal Supreme Court, May 5, 2020), https://www.bger.ch/ext/eurospider/live/de/php/aza/http/index.php?highlight_doid=aza%3A%2F%2Faza%3A%2F%2F05-05-2020-1C_37-2019&lang=en&type=show_document&zoom=.

¹⁰⁵ Ibid.

when it comes to environmental decisions is a must; failure of which violates participatory rights.¹⁰⁶

Conservation of natural resources: The Convention on the Conservation of European Wildlife and Natural Habitats lays down binding obligations for the conservation of wild fauna and flora.¹⁰⁷

Several notable cases demonstrate the Convention's impact on environmental rights. For example, the court in the case of *Tbilisi residents vs Power plant pollution*, found fault with the Georgian government due to the fact that it failed to protect its own people from the effects of pollution. This encouraged the enactment of strict environmental laws.¹⁰⁸ In the case of *Tatar v Romania*, the court held that the government had failed to assess its company's activities, which eventually led to the violation of the plaintiff's right to a healthy environment¹⁰⁹. The court ultimately found that the government failed in its duties to protect its residents' right to a healthy environment. In conclusion, the court held that it is important for the public to be involved in decision-making concerning environmental issues.

4. Conclusion

International law has contributed to the development of international environmental law. This was done through the enactment of international instruments such as the Rio Declaration and the Stockholm Declaration. It has also introduced principles such as the polluter pays principle, the principle of good neighbourliness and the prevention principle. These principles not only provide a normative guidance to environmental concerns but also strengthen the international law regime. These principles were established in notable instruments such as the Rio Declaration and the Stockholm Declaration. These instruments have played a vital role in marking the emergence of environmental protection internationally while also developing and advocating for sustainable development, community involvement and intergenerational equity.

The International Court has also played an important role when it comes to the development of environmental jurisprudence. The *Trail Smelter case* has established the principle of prevention by stating that no state should use its territory in a way that causes detriment to other states. It went further to establish that the state will be responsible for the activities conducted by its citizens. In the case of *Tbilisi Residents V Power Plant Pollution*, the court applied the international principles to protect environmental rights and protect communities from environmental harm. This application of international principles by this court was a step forward in bridging the gap between international and domestic laws.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ *Jugheli and Others v. Georgia*, App. No. 38342/05 (European Court of Human Rights, July 13, 2017), <https://hudoc.echr.coe.int/eng?i=001-175153>

¹⁰⁹ *Tătar v. Romania*, App. No. 67021/01 (European Court of Human Rights, January 27, 2009), <https://hudoc.echr.coe.int/eng?i=001-90981>.

Taken together, the development of international environmental law shows a sophisticated framework that promotes sustainable development, accountability, and the protection of human health and the ecosystem.

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