

The Draft Covenant on Environmental Conservation and Sustainable Use of Natural Resources(*)

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In the past few years, several fora, including the U.N. World Commission on Environment and Development, pointed out the need for a global environmental legal instrument.

Indeed, the existence of a pool of environmental principles, which are accepted at different levels, leads to the belief that a global instrument which would represent the fundamentals of international environmental law could be prepared.

The Commission on Environmental Law of IUCN - The World Conservation Union, mandated by the IUCN General Assembly, - has embarked on the task to prepare a blue print for such a document, and chose to call its draft, "Covenant on Environmental Conservation and Sustainable Use of Natural Resources".

The rationale for the development of each element of the draft Covenant is the existence of principles in sectoral, regional or global instruments of a binding or nonbinding character. Thus the draft Covenant builds upon existing international law, as well as soft law.

Part II of the draft Covenant contains three articles considered Fundamental Principles. The first of these articles, entitled Individual Rights and Duties, reads at present as follows:

1. All persons have the fundamental right to an environment adequate for their dignity, health and well being.
2. All persons have a duty to protect and conserve the environment for the benefit of present and future generations.

(*) Document forwarded to the Inter-American Seminar on Human Rights and the Environment.

3. In discharging their obligations under this Article, States shall take practicable measures, by legislation or otherwise, as are necessary".

The two other fundamental principles which follow concern the obligation of States to protect the environment, and to co-operate with other States and international organisations.

Draft Covenant

The Covenant thus gives a prominent place to the rights of individuals in relation to environmental conservation, while also enunciating a corresponding duty on their part.

To which category of rights such a principle belongs, is a matter which can be discussed, and has been discussed by various scholarly fora in the past.

Whatever opinion one may have on this subject, it is clear from recent international and national law developments that the trend with regard to environmental conservation is towards the recognition of a fundamental right of all persons, matched by a fundamental obligation towards present and future generations on the part of States.

It is hoped that the inclusion of these principles in the draft Covenant will contribute to their being further discussed and refined, as well as acknowledged and accepted.

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