

THE CHALLENGES FACING INTERNATIONAL EFFORTS TO PROTECT THE ENVIRONMENT



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Abstract: Despite the efforts made at the international level to protect the environment, there remain significant challenges that impede effective cooperation in this regard. One of the most prominent of these obstacles is the non-binding nature of international environmental law. The international instruments related to environmental protection do not have a binding character, making compliance voluntary for states. This weakens the effectiveness of the application of these laws instruments globally, as countries may backtrack on their environmental commitments due to short-term political or economic considerations. Addressing this problem by strengthening the binding nature of international environmental law is of utmost importance to ensure the effectiveness of global efforts to protect the environment.

Key Words: International Environmental Law, Voluntary Compliance, Strengthening the Binding Nature, Effectiveness of International Efforts, International Law.

التحديات التي تواجه جهود الحماية الدولية للبيئة

ملخص: على الرغم من الجهود المبذولة على المستوى الدولي لحماية البيئة، لا تزال هناك تحديات كبيرة تعرقل التعاون الفعال في هذا الصدد. أحد أبرز هذه المعوقات هو الطابع غير الملزم للقانون الدولي البيئي. فالقوانين والمعاهدات الدولية المتعلقة بحماية البيئة لا تتمتع بالصفة الإلزامية، مما يجعل الامتثال لها اختياريًا.

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بالنسبة للدول. هذا يضعف من فعالية تطبيق هذه القوانين والمعاهدات على المستوى العالمي، إذ قد تتراجع الدول عن الوفاء بالتزاماتها البيئية نتيجة لاعتبارات سياسية أو اقتصادية قصيرة المدى. إن معالجة هذه المشكلة من خلال تعزيز الطابع الإلزامي للقانون الدولي البيئي أمر بالغ الأهمية لضمان فعالية جهود الحماية الدولية للبيئة.

الكلمات المفتاحية: القانون البيئي الدولي، الامتثال الطوعي، - تعزيز الطبيعة الملزمة، فعالية الجهود الدولية، القانون الدولي.

LES DEFIS AUXQUELS FONT FACE LES EFFORTS INTERNATIONAUX POUR PROTÉGER L'ENVIRONNEMENT

Résumé: Malgré les efforts déployés au niveau international pour protéger l'environnement, il subsiste des défis majeurs qui entravent une coopération efficace dans ce domaine. L'un des obstacles les plus importants est le caractère non contraignant du droit international de l'environnement. Les instruments internationaux relatifs à la protection de l'environnement n'ont pas de caractère obligatoire, ce qui rend le respect de ces engagements volontaire pour les États. Cela affaiblit l'efficacité de l'application de ces lois et traités à l'échelle mondiale, car les pays peuvent revenir sur leurs engagements environnementaux en raison de considérations politiques ou économiques à court terme.

La résolution de ce problème en renforçant le caractère contraignant du droit international de l'environnement est d'une importance cruciale pour garantir l'efficacité des efforts mondiaux de protection de l'environnement.

Mots Clés: Droit international de l'environnement, respect volontaire, renforcement du caractère contraignant, efficacité des efforts internationaux, droit international.



Introduction:

International environmental protection holds great importance, yet international environmental law faces numerous challenges and issues. One of the main issues is the rules of the "hard law" are compulsory but their application poses difficulties. the probleme is about the application of these rules not their compulsory character, meaning it lacks effective and powerful legal mechanisms to compel states to comply with its obligations. International environmental treaties may be signed, but these treaties often lack mechanisms to monitor compliance and impose penalties on violators. International environmental matters also intersect with national sovereignty, which is an important factor in international law. States have the right and independence to make sovereign decisions regarding their natural resources and national environmental policies, which can at times conflict with the need for global environmental protection and a state's economic and development goals.

Additionally, international environmental law faces challenges related to judicial jurisdiction. It may be difficult for individuals or non-governmental organizations to directly file lawsuits before international courts or national courts of violating states in cases of violations of international environmental law, which can face difficulties in implementation and enforcement at the national level. States may also face challenges in adopting legislation, strengthening capacities, and providing necessary resources to apply international environmental laws.

Furthermore, the lack of effective international cooperation, which is crucial for environmental protection, faces challenges of coordination and consensus between states. Differences in national priorities and interests between states can make it difficult to reach strong and effective agreements for environmental protection.

Despite these issues, there has been continuous progress in the field of international environmental protection. Recent years have seen an increase in the number of international environmental agreements, reaching around 200 according to UN Environment Programme statistics, covering various environmental domains. Mechanisms for awareness-raising, monitoring, and assessment have also been strengthened. Some international and regional organizations are making continuous efforts to enhance the implementation and effectiveness of international environmental law.

However, these advancements are overshadowed by the persistent challenges of international cooperation in this field. The question remains: What are the key challenges that hinder international collaboration in environmental protection?

THE FIRST TOPIC:



OBSTACLES TO INTERNATIONAL COOPERATION IN ENVIRONMENTAL PROTECTION

There are a number of obstacles facing international cooperation in the field of environmental protection. The first is the diversity of national interests and priorities among countries, where countries have different priorities in economic and environmental development, making it difficult to reach common agreements and commitments. Some countries place economic development at the top of their priorities at the expense of the environment.

There are also political and geopolitical differences between countries. Political tensions and conflicts between countries have a negative impact on the ability of countries to cooperate on environmental issues. Environmental issues are often used as a political tool in international negotiations.

On the other hand, many countries, especially developing ones, face limited financial and technical resources necessary for environmental projects. These countries lack the financing and modern technology needed to effectively protect the environment.

First requirement: The Challenges of Applying Hard Law in International Environmental Regulation:

The application of "hard law" in international environmental law presents significant challenges, as it often lacks effective mechanisms to enforce its obligations on states. While these laws may be binding, the real issue lies in the practical application and compliance with international environmental agreements. States may not fully implement the provisions of these agreements for various reasons, including the nature of international legislation itself.

International law generally emphasizes national sovereignty, allowing each state to make independent decisions within its borders. This principle can create obstacles to fulfilling environmental law obligations at the international level. Additionally, the enforcement mechanisms for international environmental law are often weak, lacking effective avenues for investigation, arbitration, and imposing penalties in cases of non-compliance.

Furthermore, some international organizations tasked with implementing environmental laws may face limited capabilities, hindering their ability to ensure compliance with environmental obligations. Thus, the challenge is not merely about the binding nature of these laws, but rather about the effective application and enforcement of "hard law" in the realm of international environmental governance.



some states may prioritize their domestic national interests if they conflict with international environmental obligations, and some states may prefer to maintain a certain development model that may conflict with environmental protection. As a result, it is difficult for international environmental law to be effectively binding.

Based on the above, international cooperation in the field of the environment may suffer from a lack of alignment between states regarding environmental challenges and environmental protection priorities, leading to disagreements over the distribution of burdens and responsibilities and achieving a balance between economic and environmental needs. National sovereignty can also be an important factor in undermining international cooperation in environmental protection and may pose a challenge to effective cooperation between states, as it means the right of states to make independent decisions within their national borders, which can lead to competition between national interests and global environmental protection obligations.

Environmental issues transcend national borders and require effective international and regional cooperation. However, states may face difficulties in cooperating and sharing information and resources due to sovereignty concerns, with some fearing interference in their internal affairs or viewing environmental protection obligations as conflicting with national development needs.

Many states recognize that environmental challenges require cross-border responses, and some mechanisms have been developed to enhance international cooperation in environmental protection¹.

The signing and implementation of international agreements promotes cooperation in environmental protection, with states committing to undertake specific measures to preserve the environment and to share information, technology, and resources. International institutions like the United Nations, World Health Organization, and International Maritime Organization work to foster international cooperation and the exchange of information and expertise on environmental protection.

Countries are also encouraged to form regional partnerships for environmental cooperation, coordinating efforts and pooling resources to address shared environmental challenges. International commissions can also be established to negotiate and develop international environmental laws and standards,

1- محمد محمود الحرثاني، مبادئ براونلي للقانون الدولي العام، المركز العربي للأبحاث ودراسة السياسات، الطبعة الثامنة، بيروت، لبنان، 2022، ص 697.



strengthening cooperation and global awareness of the importance of environmental protection and sustainable development. This increasing global pressure encourages states to cooperate and collectively address environmental challenges. Environmental issues transcend national borders and require effective international and regional cooperation. However, states may face difficulties in cooperating and sharing information and resources due to sovereignty concerns, with some fearing interference in their internal affairs or viewing environmental protection obligations as conflicting with national development needs.

The Second Requirement: Lack of Environmental Justice Globally :

Achieving environmental justice is a crucial challenge in the field of environmental protection¹. The term "environmental justice" refers to the need to fairly distribute environmental benefits and burdens among all social groups and nations. Unfortunately, the world is witnessing significant gaps in environmental protection and its impacts on people and communities².

In today's world, developing countries and impoverished communities often bear the brunt of the consequences of pollution and environmental degradation more than wealthy and developed nations. These countries face challenges such as air and water pollution, wildlife loss, extinction of rare animal and plant species, climate change, and natural environment degradation. At the same time, wealthy countries have better resources and technologies to protect the environment.

This disparity in bearing the environmental burden leads to a lack of environmental justice, where vulnerable and marginalized individuals and communities suffer the effects of pollution and environmental decline more, while the rich and economic powers enjoy better environmental protection. To achieve environmental justice, states and communities must take serious actions to address this gap, including promoting international cooperation. Wealthy and developed countries must provide support and assistance to developing nations in building environmental capacities, promoting clean technologies, and improving environmental infrastructure. Financing and investments should be directed towards sustainable development and environmental protection in developing countries, and financial and technical support should be provided for small and medium-sized environmental projects in those countries. Environmental governance must be

1 - Rhuks Ako, Environmental Justice In Developing Countries, Perspectives From Africa And Asia-Pacific, Routledge , First Published, New York, Usa, 2013, P 5

2 - Ibid.



strengthened, and fair and transparent participation of local and affected communities in environmental decision-making must be ensured. Individual rights to access environmental information and participate in environmental processes must be reinforced.¹

In balancing economic development and environmental protection, states must develop policies and strategies that strike a balance between economic growth and environmental protection, while promoting environmental sustainability and achieving inclusive and equitable development. It is also crucial to enhance awareness and education on environmental issues and their importance, and encourage sustainable and responsible environmental behavior among individuals and communities².

Environmental justice requires strong political will and comprehensive international cooperation. Governments, international institutions, and civil society must work together to achieve an environmental and social balance that ensures the sustainability of the planet and the well-being of all communities.

THE SECOND TOPIC:

SHORTCOMINGS OF INTERNATIONAL TREATIES IN COMBATING POLLUTION

International agreements play an important role in addressing environmental issues, including pollution, due to the power derived from the principle of international cooperation, which places states under a moral obligation that must be observed. However, there are some limitations that impede their effectiveness, as follows:

The first requirement: Limitations of participation and diversity of legislation

One of the real challenges that hinder effective international coordination in the field of environmental protection is the limited participation of some countries in global environmental efforts and the diversity of environmental legislation between countries. The lack of a comprehensive collective commitment from all concerned parties, in addition to the difference in environmental standards and responsibilities, makes it difficult to achieve effective cooperation in addressing global environmental challenges. Therefore, enhancing the full participation of countries and unifying

1- محمد محمود الحرثاني، المرجع السابق، ص 699.

2 - Rhuks Ako, Op.Cit, P 6

environmental legislation at the international level will be necessary to achieve better results in this field.¹

First section: Limitations of Participation and the Weakness of Enforcement Mechanisms

International agreements derive their power from the wide participation of countries in order to be effective. If participation is limited to certain countries and the main countries concerned with the subject of the agreement or the main polluters do not participate, or if some countries withdraw from the agreements while others remain, their impact can be, Achieving a consensus among states with divergent priorities and interests can pose a significant challenge in reaching a unanimous agreement or one that gathers a larger number. The level of representation at conferences can also be an obstacle to the ability to make decisions without having to refer back to governments. Thus, the representation of the head of state, whether a president, king, or prime minister, and their personal participation in international conferences and meetings, will be more effective than that of a lower-ranking representative such as a special envoy, ambassador, or minister².

In many cases, states commit to international agreements and fully adopt their provisions by amending and updating their legislation and establishing the appropriate mechanisms to implement the terms of these agreements. However, some states may encounter limitations in enforcement mechanisms. Compliance and mobilizing resources to achieve pollution reduction goals can prove complex and costly, especially for developing countries. Moreover, some politically unstable states may lack the political will or necessary capacity to implement and enforce the agreed-upon measures, particularly if the circumstances on the ground differ from the conditions of the agreement, making it difficult to enforce the obligations outlined in the agreement³.

Second Section: Domestic Legislation and Negotiation Challenges

Countries differ in their legal systems, regulatory frameworks, and legislations, as well as the level of flexibility in their laws and regulations, making it difficult to address them in a unified manner and achieve a consistent level that

1 - Madani Khalil, Beljilali Khaled, Environmental Security Challenges in Light of International Climate Protection, Journal of Research, Law, and Political Science, Vol 7, Issue 2, 2021, p. 220.

2 - Jack L Goldsmith, eric A posner, the limits of international law, oxford university press, new york, united state of america 2005, p 3.

3 - مبارك جسام محمد الدليمي، اختصاص المحاكم الجنائية الوطنية في تنفيذ الاتفاقيات الدولية، المركز العربي للنشر والتوزيع، الطبعة الأولى، القاهرة، جمهورية مصر العربية، 2020، ص 17، 18.



allows for the implementation of international agreements and treaties in a coherent manner. Domestic legislations and regulations may not be aligned with the terms and requirements of international agreements, resulting in gaps and contradictions that are difficult to overcome in dealing with issues of environmental protection and pollution control.¹

The negotiation process and procedures for ratifying international agreements are usually prolonged. Negotiation rounds may take longer periods if the environmental issues involved are more complex, as they are linked to economic development and overlap with the principle of state sovereignty in decision-making. Some issues may be politicized or align with the interests of various alliances for political or economic reasons, excluding the substantive aspect of the agreement, which in turn poses a significant obstacle in expediting the negotiations. This may result in multiple rounds of discussions, revisions, and approvals, and can lead to delays in taking concrete practical measures to address pollution, potentially impeding timely responses to achieve environmental objectives, especially in the case of pollution issues that do not wait, considering the rapid spread of environmental damage and the peculiarities of some types of pollution, such as transboundary pollution.

Many international agreements often face constraints regarding their scope and depth. Some agreements may address specific environmental elements or seek to establish agreement clauses to eliminate certain pollutants or according to specific sectors, which may divert attention from other sources of pollution that are left unaddressed. Additionally, there may be varying levels of ambition and commitments between one country and another, which hinders the proper implementation of the agreements, leading to limited effectiveness in achieving higher levels of environmental pollution reduction.

The Second Requirement: Technological Development and Lack of Financial and Technical Assistance

Technological development has played an important role in the field of environmental protection², but the lack of financial and technical assistance remains a major challenge for international cooperation in this field.

1 - المرجع نفسه، ص 19.

² - Jack L Goldsmith, Eric A Posner, Op.Cit, P 6.



In terms of technological development, modern technologies in areas such as renewable energy, cleaner transportation, and green technology have provided great potential to improve environmental performance and reduce the negative impacts of human activities. However, fully benefiting from these technologies requires the availability of the necessary financial and technical resources.

Here comes the challenge of the lack of financial and technical assistance, especially for developing countries. These countries lack the adequate funding and advanced technology that would enable them to apply effective technical solutions to protect the environment. These countries often rely on external assistance and financing to implement environmental projects.

Therefore, the international efforts to protect the environment require increasing the financial and technical assistance provided to developing countries, which would enable them to fully utilize the latest technological developments in this field. This would greatly contribute to enhancing effective international cooperation in environmental protection.

First Section: Rapid Advancement in Artificial Intelligence Technology:

The rapid pace of technological development and innovative applications in artificial intelligence technology may outpace the ability of international agreements to adapt to these advancements. As a result, new forms of pollution or sources of pollution may emerge¹, or new technologies may be developed to mitigate and reduce pollution using novel techniques and methods. This may require a flexible international framework that can respond to these updates, which can be difficult to establish through standard international coordination processes².

Artificial intelligence is a powerful tool for analyzing environmental data, monitoring pollution, and detecting environmental changes with high accuracy and efficiency. It enables the collection of data from multiple sources such as satellites, drones, and smart sensor networks to quickly and effectively identify air and water pollution as well as changes in ecosystems. Artificial intelligence can also be used to improve the management of natural resources like water, energy, and forests by analyzing data

1- نبيل بوعجيلة، إبراهيم مرمرية، تداعيات تطبيقات الذكاء الاصطناعي على التنمية المستدامة رؤية استشرافية، منير صوالحة، كتاب جماعي، الاستشراف الاستراتيجي في القطاعات المجتمعية، دار الأصاله للنشر، 2024، ص328.

² - Geiser K, What's next?: Technology, cleaner production technologies. UNEP'S International High level Seminar on Cleaner Production, 2000, p 19.



and using smart models to enhance the efficiency of resource use and guide conservation strategies. This can provide a forward-looking vision aimed at maintaining environmental balance and ensuring a healthy¹, sustainable future through the scientific and statistical collection of data to inform appropriate actions and make well-informed strategic decisions for environmental protection and sustainability.

On the other hand, it has become necessary to take measures to maintain a balance between technological progress and environmental protection, and to ensure that complete reliance on technology does not lead to the depletion of environmental resources and environmental degradation. The transformation brought about by artificial intelligence is considered a new challenge, as the application of smart technologies can lead to major changes in the economy and society. The use of artificial intelligence and advanced technologies can improve the efficiency of production and services, but it can also lead to increased social tensions and higher unemployment rates in industries that rely heavily on labor. Robots and intelligent systems may increasingly replace workers, leading to job losses for many and exacerbating social inequalities².

In general, artificial intelligence has positive aspects that may solve pollution-related problems in the future, but it is also associated with negative aspects that may work to dismantle societies and pollute the planet. The common factor between these two choices is the rapid pace of its development, which cannot be matched by international agreements except through legal vigilance and flexibility that is commensurate with the pace of technological development and innovation³.

Second Section: Lack of financial and technical assistance:

The countries of the Third World may face challenges in implementing measures and measures related to combating pollution due to the lack or absence of financial envelopes and technologies related to the specificity of a particular type of pollution. In general, international agreements include provisions related to the need to provide

1- نبيل بو عجيبة، إبراهيم مرامرية، المرجع السابق، ص 341.

² - How artificial intelligence is helping tackle environmental challenges, un environnement programme, access date: 03/12/2024, access time: 21:10, At: <https://www.unep.org/news-and-stories/story/how-artificial-intelligence-helping-tackle-environmental-challenges>.

³ - Yang Shen, Xiuwu Zhang, The impact of artificial intelligence on employment: the role of virtual agglomeration, humanities and social sciences communications, 2024 , p 02, access date: 05/04/2024, access time: 18 : 20 on At : file:///C:/ https: // www.Users/Hp/Downloads/s41599-024-02647-9.pdf.



financial and technical assistance to support developing countries in their efforts to ensure compliance with the implementation of the agreement, but the reality reveals that the availability and adequacy of this assistance is greatly limited, which hinders the ability of these countries to fulfill their obligations and effectively combat pollution¹.

To address these constraints that prevent international agreements from achieving their environmental objectives related to improving the quality of life and combating pollution, the international community must strengthen international cooperation and coordination, by enhancing implementation mechanisms, building capacities and transferring technology, and ensuring the involvement of diverse stakeholders in decision-making processes so that they are closer to reality. Additionally, supporting innovation, research and development can contribute to effectively addressing pollution challenges and protecting the environment.

Conclusion :

By reviewing the issues and challenges facing efforts for international environmental protection, we observe that international environmental law still suffers from many limitations and obstacles that restrict its effectiveness and ability to effectively preserve the global environment. The weak binding nature of international environmental law, the absence of effective mechanisms for monitoring compliance and enforcing sanctions, in addition to the overlap between environmental issues and national sovereignty of states, and the difficulties of international cooperation in this field, are all factors that limit the ability of the international community to reach strong and effective environmental agreements. Nevertheless, the increasing international interest and efforts to protect the environment remain a positive and promising endeavor, and requires more cooperation and commitment between states to address these challenges and reach more effective legal frameworks in this vital field.

Through this study, we reached the following results and recommendations
International environmental law still faces significant limitations and obstacles that restrict its effectiveness in preserving the global environment.

The main limitations include:

- The weak binding nature of international environmental agreements

¹ - Kazem Al-Miqdadi, Marine Environment Protection, Academic Book Center, Amman, Jordan, 2016, p. 127.

- Lack of effective mechanisms for monitoring compliance and enforcing sanctions
- Overlap between environmental issues and national sovereignty of states
- Limitations related to judicial jurisdiction
- Difficulties in achieving effective international cooperation

Based on the above, this study recommends the following Strengthen the binding nature of international environmental agreements to increase their enforceability.

- Develop more effective monitoring and compliance mechanisms, including potential sanctions for non-compliance.
- Find ways to better balance environmental protection with national sovereignty concerns, potentially through increased cooperation and consensus-building.
- Expand the jurisdictional reach and authority of international courts and tribunals to adjudicate environmental disputes.
- Promote greater international cooperation and commitment among states to address these challenges and develop more effective legal frameworks for environmental protection globally.

Overall, the conclusion highlights the need for substantive reforms and improvements to the international environmental legal regime in order to enhance its ability to effectively preserve the global environment. Strengthening the legal frameworks, enforcement mechanisms, and international cooperation will be critical going forward.

Bibliography List

References in English

Books :

1. Rhuks Ako, Environmental Justice In Developing Countries, Perspectives From Africa And Asia-Pacific, Routledge , First Published, New York, Usa, 2013.
2. Kharoua Ahmed, International Environmental Law in Light of Sustainable Development, Analytical Lessons on the Laws That Shape International Climate Policy in the 21st Century, a series of lectures directed to postgraduate students, Dar Al-Khaldounia, Datta, Algeria, 2021
3. jack l goldsmith, eric a posner, the limits of international law, oxford university press, new york, united state of america 2005.
4. Kazem Al-Miqdadi, Marine Environment Protection, Academic Book Center, Amman, Jordan, 2016.
5. Geiser K, What's next?: Technology, cleaner production technologies. UNEP'S International High level Seminar on Cleaner Production, 2000.

Internet websites:

1. How artificial intelligence is helping tackle environmental challenges, un environnement programme, access date: 03/12/2024, access time: 21:10, on the following website: <https://www.unep.org/news-and-stories/story/how-artificial-intelligence-helping-tackle-environmental-challenges>.
2. Yang Shen, Xiuwu Zhang, The impact of artificial intelligence on employment: the role of virtual agglomeration, humanities and social sciences communications, 2024 , p 02, access date: 05/04/2024, access time: 18 : 20 on the following website : <file:///C:/Users/Hp/Downloads/s41599-024-02647-9.pdf>.

References in Arabic

1. محمد محمود الحرثاني، مبادئ براونلي للقانون الدولي العام، المركز العربي للأبحاث ودراسة السياسات، الطبعة الثامنة، بيروت، لبنان، 2022.
2. مبارك جسام محمد الدليمي، اختصاص المحاكم الجنائية الوطنية في تنفيذ الاتفاقيات الدولية، المركز العربي للنشر والتوزيع، الطبعة الأولى، القاهرة، جمهورية مصر العربية، 2020.
3. نبيل بوعجيلة، إبراهيم مرامرية، تداعيات تطبيقات الذكاء الاصطناعي على التنمية المستدامة رؤية استشرافية، منير صوالحة، كتاب جماعي، الاستشراف الاستراتيجي في القطاعات المجتمعية، دار الأصالة للنشر، 2024.