BOOK EXCERPT

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A | The Growth and Development of International Environmental Law

Since the mid-20th century, environmental pollution and ecological damage have increasingly garnered attention from the international community. In the field of environment, various significant issues and emerging problems have posed new challenges to existing international laws, but have also provided new opportunities for the further development of international law.

There has already been some substantial development of global environmental law. The United Nations Conference on the Human Environment, in Stockholm in 1972, marked the birth of modern international environmental law. This conference promoted the formulation and compilation of general rules and principles, and was a first important milestone. The United Nations Conference on Environment and Development (UNCED), also known as the Earth Summit, held in Rio de Janeiro in 1992, was the second important milestone, and had far-reaching significance. Almost every aspect of environmental protection has been invigorated by the concept of sustainable development, forming a basic international legal framework for emerging global issues such as climate change and biodiversity. Significant progress has been made in research and legislation in various areas, including international human rights law, criminal law, international trade law, private international law, fisheries law, international water resources law, nuclear energy law, and the Antarctic Treaty System. The World Summit on Sustainable Development, held in Johannesburg in 2002, set new goals for the following 20 years, including the eradication of poverty, meeting basic sanitation needs, controlling the production and use of hazardous chemicals, protecting global fisheries resources, and reducing biodiversity loss. The conference introduced social development as a key element in the concept of sustainability. The principles were quickly accepted by almost all countries and regarded as fundamental national policies and development strategies. In 2015, following the Millennium Development Goals, the United Nations adopted the Sustainable Development Goals as a guiding framework for future global development efforts.

In other areas of international

law, environmental protection issues are also receiving increasing attention. For example, in World Trade Organization (WTO) law, the interplay between trade and issues such as environment, public health, labor standards, human rights, and ethics has become more pronounced. The growing concern for these issues reflects a shift in values and an elevation of the moral standards of humanity. People are no longer solely focused on economic prosperity, material possessions, or wealth creation. The values of respect for human beings, protection of their living environment, and care for nature are gaining more recognition overall.

International environmental law has experienced the following changes, breakthroughs, developments, and contributions:

First, international law is no longer limited to traditional international rule of law but increasingly emphasizes global governance, which is a rich concept in legal studies. Traditional international environmental rule of law involves the active response of the international community to environmental issues, with states and international organizations as the main actors. Global environmental governance, on the other hand, is based on legal systems, laws, and judicature but goes beyond traditional rule of law and requires a more dynamic and open global partnership. Global environmental governance emphasizes the broad inclusion of international civil society, and the active role of Non-Governmental Organizations (NGOs) in the environmental protection process. It emphasizes elements of good governance such as the right to information and democratic decision-making. This shift, somewhat away from state cooperation, towards one that is more NGO-centered, is particularly significant in international environmental law. Currently, the international resolution of environmental issues requires the combined effort of international environmental law and of global environmental governance, with the two mutually reinforcing. Neither traditional inter-state rule of law nor emerging global governance alone is sufficient to fulfill this mission.

Second, the participants in the legislative process of international law are becoming both increasingly diverse and increasingly equal. Developing countries have a growing influence in the legislation of international environmental law, which is a remarkable shift. For example, developing countries have played a leading role in establishing the principle of "common but differentiated responsibilities." The globalization of environmental issues has weakened the control of sovereign states, making international cooperation increasingly necessary. The flexibility, expertise, grassroots nature, and public interest of NGOs make them well-suited to play active roles in the environmental field. The efforts of NGOs have been instrumental in the achievement of many treaties. Compared to their role in other areas of international law, such as trade law, NGOs have a more prominent part to play in the legislative and judicial processes

of international environmental law. It can be said that this field has a relatively high degree of democratization.

Third, soft law provides a new legislative method and form for the international community and law. It also serves as an important tool and means for the compilation of law, as well as the interpretation of treaties and other rules; the notion that soft law is not "soft" is now widely accepted. In developing fields such as international environmental law, where rules take time to solidify, the legal order cannot solely rely on traditional hard law. Instead, it must be supported by both soft and hard law.

Fourth, a series of legal concepts and principles, such as common heritage and concerns of humanity, global commons, "common but differentiated responsibilities," obligations to future generations, and a human community with a shared future, represent a creative development of international environmental law and have profound significance for general international law. For example, under these new concepts, it is an innovative development for humanity (rather than the international community) to be recognized as the subject inheriting and owning property and to be responsible for its administration (such as international seabed resource development).

Fifth, international environmental law embodies the concept of a human community with a shared future. The common ecological well-being of humanity is its most prominent common interest and important for building a human community with a shared future. Currently, international law has to provide institutional frameworks and negotiation mechanisms for global environmental issues such as ozone depletion and greenhouse gas emissions, and must pave the way for addressing common problems, interests, and destiny. However, the current mechanisms in this regard need to be strengthened. Moreover, international law distinguishes between developed countries and developing countries, which is most prominent in the environmental field. Article 7 of the Rio Declaration explicitly sets out the principle of "common but differentiated responsibilities." This principle requires recognition of the different situations of the two categories of countries, especially in terms of differing responsibilities for environmental degradation, and providing differential treatment to developed countries and developing countries on this basis.

Sixth, the shift from traditional prevention principles to the precautionary approach is an important contribution of environmental matters to international law. However, in many cases, traditional prevention principles are not sufficient and international environmental law has adopted a precautionary approach in certain issues. Initially, international law in the environmental field focused on holding transboundary environmental responsibilities accountable. However, now international law in the

environmental field has globally and preventively provided some protection to the environment, adopting a precautionary approach to certain irreversible and high-risk environmental hazards, such as genetically modified products.

Seventh, public participation is an important concept in international environmental law. The concept and principles of public participation in environmental affairs, including the right to information, the right to participate in decision-making, and the right to access to justice, have been accepted by many countries' environmental protection laws as fundamental principles since the 1992 Rio Declaration. They have been significantly important in environmental protection law. Regional laws, such as the Aarhus Convention in Europe, have further developed and promoted the mentality and concept of public participation, turning it into legal principles and systems.

In summary, the concept of global ecological environmental protection is becoming part of a universal and rational philosophy, and an important foundation of the global legal order. Environmental protection, ecological civilization, and green development are matters of common concern for humanity and are at the forefront of the international community's agenda. This consensus is expressed through numerous international documents, even though many of them are non-binding agreements. Currently, international environmental protection has entered a critical period, and what is most needed is active cooperation and concrete action. What kind of situation and pattern are we in, and how should humanity proceed with environmental protection? What should international environmental law do? These are the questions that this book aims to answer.

B | China's Participation in and Contribution to International Environmental Affairs

Currently, China is actively engaged on the international stage as a responsible major country. In recent years, China has made increasing commitments in the field of international environmental rule of law and global governance. It actively participates in global environmental governance and strongly supports and implements the Paris Agreement, aiming to promote the creation of a fair, reasonable, cooperative, and win-win multilateral system for international environmental governance. Moreover, domestically, China pays close attention to sustainable development, following an innovative, coordinated, green, and open philosophy, and incorporating the construction of ecological civilization into its national development strategy.

China has explicitly stated that environmental protection and ecological construction are important aspects of building a human community with a shared future. The concept of a human community with a shared future is a significant proposition put forward by China recently and is vital for international and domestic

environmental protection, ecological construction, and sustainable development. This indicates that in participating in international affairs, including environmental matters, China is promoting a new type of international relations and a human community with a shared future and with a global vision, promoting the well-being of all. To this end, China deepens extensive cooperation with governments and NGOs of various countries, actively participates in global governance and multilateral affairs, prompts environmental protection, ecological construction, and common development, and safeguards the interests not only of the Chinese people but also the common interests of all humanity.

In practice, the Chinese government actively upholds the concept of a human community with a shared future and fulfills its obligations in global environmental protection. China has participated in numerous international environmental action plans and conventions, and is fulfilling its responsibilities in protecting the ozone layer, reducing persistent organic pollutants, and controlling the import and export of hazardous waste and chemicals. China has set up relevant mechanisms with neighboring countries to carry out environmental cooperation. Together with governments and people from around the world, China shares information, exchanges experiences, and jointly addresses transboundary pollution issues.

In the negotiations of the United Nations Framework Convention on Climate Change (UNFCCC) and its protocols, there have been serious disagreements between developed and developing countries, and the principle of "common but differentiated responsibilities" has been the most challenging aspect of negotiations between major countries like China and the United States. In climate change negotiations, China has demonstrated itself as a responsible major country, engaging in dialogue, communication, and coordination with all parties in a rational, pragmatic, and constructive manner. The Joint Statement between China and the United States clearly defines the principle of "common but differentiated responsibilities," reflecting the distinction between developed and developing countries.

With China's active efforts, the UNFCCC negotiating parties have followed the fundamental principles of the convention, including the principles of equity and of respective capabilities. The negotiating parties have focused on elements such as mitigation, adaptation, finance, technology, capacity building, and transparency. They reached the Paris Agreement through consensus-building, and have continuously strengthened the comprehensive and effective implementation of the convention. China has made valuable contributions to advancing international climate change negotiations, boosting the confidence and ambition of the international community in addressing climate change together. This will have a productive impact on the progress of climate change

mitigation and global sustainable development.

Meanwhile, China faces a very severe environmental challenge. Effectively addressing its own environmental pollution issues equates to China's major contribution to resolving global environmental problems. Taking smog in China as an example, at the beginning of the 21st century, widespread smog occurred in regions such as the Yangtze River Delta, the Pearl River Delta, and especially in the Beijing-Tianjin-Hebei region. The Chinese government took this issue seriously and put forward new ideas, judgments, and requirements regarding environmental protection and air pollution control. It declared a resolute war against pollution, similar to the fight against poverty, and aimed to reduce pollutant emissions from the then level of tens of millions of tons to the level of millions of tons.According to the China Air Quality Improvement Report (2013–2018), since 2013, China has formulated or revised and strictly implemented multiple laws and regulations to control air pollution. Measures such as eliminating outdated production capacity, optimizing industrial structure, and controlling total coal consumption has been implemented. As a result, by 2018 the environmental quality in key regions had improved noticeably. Air pollution, particularly smog, had been effectively controlled. The average PM2.5 concentration in the Beijing-Tianjin-Hebei, Yangtze River Delta, and Pearl River Delta regions had decreased by 48%, 39%, and 32% respectively compared to 2013. In the 74 cities that implemented the Environmental Air Quality Standard, the average national PM2.5 concentration decreased by 42%, with Beijing achieving a 43% reduction. No other country in the world has undertaken such a massive environmental governance endeavor within such a short period of time. This demonstrates China's commitment to tackling hard challenges with comprehensive measures and firm determination.

China is operating within a globally competitive economic context, where the relationship between economic growth and environmental protection is complex. Balancing economic development and environmental protection, and improving environmental quality, pose tough challenges. For a company to grow and become strong, it needs to rely on improved production efficiency and technological innovation. Environmental requirements have both positive and negative effects on companies, and environmental protection itself can be an important driving force for economic growth. Therefore, it is crucial to formulate and implement economic and environmental policies and laws guided by sustainable development principles.

China's policy guidelines on global environmental governance are clear. In the process of promoting international environmental governance cooperation, China considers the interests of all parties and follow the "principle of four

adherences." First, China adheres to discussing environmental issues within the framework of sustainable development, in order to achieve the coordination and unity of environmental protection and economic and social development. Second, China adheres to the principle of "common but differentiated responsibilities" to help developing countries to steadily improve their environmental governance level and sustainable development capacity. Third, China adheres to the principle of national sovereignty over environmental resources. This is a prerequisite for international cooperation in the field of environmental governance and is a right granted to countries by the United Nations Charter and general international law. Fourth, China adheres to the full participation of developing countries. Developing countries have the realistic need to strengthen environmental protection and governance while facing the heavy tasks of economic development and improving people's lives. Developing countries should be indispensable participants in international environmental governance. China should step up international environmental cooperation in order to create a more beautiful home for future generations and pave the way for a low-carbon, green, and sustainable development path in building a human community with a shared future.