

# The Environment: The Most Critical Global Issue, the Role of the International Court of Justice (ICJ) and States in Advancing International Environmental Law

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The misuse of land accounts for 11% of carbon dioxide emissions that contribute to the warming of our planet. The United Nations has warned of a climate hell. In a separate report, the United Nations' World Meteorological Organization pointed to an 80% probability of recording temperatures more than 1.5 degrees Celsius above pre-industrial levels for at least one year within the next five years. Air pollution affects physical, mental, and emotional health, reducing brain oxygen levels, leading to impulsive decisions, and increasing impulsive behaviors, which disrupt adaptation to the environment. According to medical research, air pollution can lead to increased anxiety, stress, violence, aggression, reduced cognitive ability, learning, and concentration, depression, and certain psychosomatic and mental disorders. The environment is the world's most critical issue because it encompasses water, clean air, dense forests, soil preservation, sustainable urban development, smokeless factories, planned mining, efficient use of seas, and pure oxygen for everyone to breathe. If rulers do not have the environment, where will they rule? International law, once confined to regulating relations between states and in the context of warfare, has made significant progress thanks to the expansion of international relations, opening new horizons for the global community. Among these advancements is international environmental law, a set of international rules aimed at preventing pollution and protecting the environment. Scientific advancements and the creation of new technologies have put the environment at greater risk, making its protection a more serious concern. Over the past four decades, international environmental law has emerged as an essential part of the public order of the global community, increasingly linked to the work of the International Court of Justice (ICJ). The ICJ, as the primary judicial body of the United Nations, plays a crucial role in environmental protection and the development of international environmental law. The findings suggest that states also have significant obligations and responsibilities in protecting and advancing international environmental law. States must safeguard the environment from all forms of pollution, destruction, and other threats, and refrain from posing threats to the environment of other countries. The constructive cooperation and engagement between the International Court of Justice and states, within the framework of environmental diplomacy and adherence to international commitments, can have a significant role in protecting the environment and advancing international environmental law.

**Keywords:** *Environment, United Nations, Climate Change, International Environmental Law, International Court of Justice, State Responsibility, Environmental Obligations, Threats to Peace and Security.*

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## 1. Introduction

Undoubtedly, the increase in global temperatures will endanger the fundamental bases of human life, particularly in developing countries, exacerbating vulnerability to poverty and social deprivation and threatening human security. These changes will also increasingly set the stage for conflicts (Tayebi, 2016). Humanity is dependent on the Earth; however, across the world, a toxic combination of pollution, climate disruption, and biodiversity destruction is turning healthy lands into deserts and thriving ecosystems into dead zones. They are destroying forests and grasslands, thus weakening the Earth's ability to support ecosystems, agriculture, and communities. This means that crops are failing, water resources are being depleted, economies are weakening, and communities are at risk. The poor suffer the most. Sustainable development is being undermined, and we are trapped in a deadly cycle. In this era, environmental issues have become one of the most significant global challenges. Climate change, transboundary pollution, biodiversity destruction, and ecological crises are problems that transcend national borders and require global solutions. People only leave their homeland when environmental changes make life so difficult that remaining threatens their normal lives and health (Tayebi, 2016).

Humans are the most significant factor influencing climate change. Technological advancements and the achievement of modern living have come at the cost of destroying natural resources and causing the extinction of numerous species of plants and animals. Rapid population growth, relentless exploitation of mines, deforestation, brutal killing of animals, destruction of pastures and vegetation, turning them into farms, excessive use of agricultural pesticides, and pollution of air and water resources due to industrial activities have put the biosphere, the shared home of all living creatures, at risk (Tayebi, 2016). In this regard, international environmental law, as a crucial branch of international law, plays a vital role in regulating relations between countries and protecting the global environment. The development and completion of international environmental law is a complex and multifaceted process that requires the participation and cooperation of various actors on the international stage.

Among these, two key actors play a prominent role in shaping and promoting this legal field:

## 2. The International Court of Justice and States

The International Court of Justice (ICJ), as the principal judicial organ of the United Nations, contributes to the interpretation and development of the principles and rules of international environmental law through its judgments and advisory opinions. On the other hand, states play a fundamental role in the implementation of these rules and principles by enacting laws, fulfilling international obligations, and participating in global cooperation.

This article examines the role of the International Court of Justice and states in advancing international environmental law. The purpose of this review is to identify existing mechanisms for the effective development and implementation of environmental laws at the global level and to offer suggestions for improving this process. International environmental law, as one of the most dynamic branches of international law, plays a vital role in addressing global environmental challenges, with the International Court of Justice and states being two main actors in promoting and developing this legal field.

The ICJ, through the interpretation of laws, dispute resolution, and the development of legal principles, plays an essential role in shaping the theoretical framework of international environmental law. The court's judgments and advisory opinions provide valuable guidance for better understanding and implementing international environmental obligations. Additionally, by adjudicating cases related to environmental disputes between countries, the ICJ contributes to the establishment of a legal precedent in this field. On the other hand, states, by enacting and enforcing domestic laws, participating in international treaties, and engaging in bilateral and multilateral cooperation, play a fundamental role in operationalizing the principles of international environmental law. States' actions in reporting and transparency contribute to increased trust and accountability on the international stage.

Environmental protection is one of the most critical global challenges today. With the growing world population and industrial development, pressure on natural resources and environmental degradation is

increasing. In this context, the role of the ICJ and states in environmental protection is of great importance.

The ICJ has played a significant role in expanding and developing environmental obligations in international law. The court has affirmed the principle of the non-harmful use of territory, stipulating that states are obliged to ensure that their territories are not used for activities contrary to the rights of other countries.

In its judgments, the ICJ has emphasized key environmental law principles such as the principle of prevention, the precautionary principle, the principle of environmental impact assessment, and the principle of information sharing. By resolving environmental disputes between countries, the court has helped prevent the escalation of military conflicts. Furthermore, through the interpretation and clarification of existing legal rules, it has contributed to the development of international environmental law. In recent years, the court has, in several rulings and advisory opinions, including the Pulp Mills on the River Uruguay case (Argentina v. Uruguay), emphasized the necessity of environmental impact assessments for cross-border projects and confirmed the precautionary principle in environmental protection. The court also stressed the importance of cooperation and mutual information sharing between states regarding cross-border projects. In its advisory opinion on the legality of the threat or use of nuclear weapons, the ICJ underscored states' obligations to protect the environment in times of both war and peace, and emphasized the need to adhere to international environmental principles when using nuclear weapons. In the context of climate change, the ICJ and other international bodies, including the European Court of Human Rights, have emphasized that states must prevent the emission of greenhouse gases to avoid dangerous climate changes.

Rising concerns about climate change and its adverse impacts on human life have led to states' obligations under climate conventions and other related sources, resulting in various rulings, sometimes conflicting with the interests of certain countries. One recent ruling by the European Court of Human Rights involved the case of Verein KlimaSeniorinnen against the Swiss government, where Switzerland was found to have violated human rights obligations by failing to fulfill its climate commitments.

This is the first time the European Court of Human Rights has ruled on climate-related obligations impacting human rights. Given the growing importance of environmental issues and climate change and the concerns about the endangerment of human life and global society, the ruling in this case will have significant global implications. The attention to human rights obligations alongside the harmful effects of climate change and the references made in the ruling could serve as a reminder of states' responsibilities concerning the consequences of these issues.

In addition to the European Court of Human Rights, courts in Australia, Brazil, Peru, and South Korea are currently addressing climate-related lawsuits. The Supreme Court of India has also ruled that citizens have the right to be free from the adverse impacts of climate change.

### 3. Statement of the Problem and Necessity

On December 2, 2020, Antonio Guterres, the Secretary-General of the United Nations, in his speech at the UN Information Center, declared the fight against the climate crisis as the United Nations' top priority for the 21st century. He described the state of the Earth as in crisis and declared humanity to be at war with nature. He explained that deserts are expanding, wetlands are disappearing, 10 million hectares of forests are destroyed each year, oceans are being overfished and suffocated with plastic waste, and the absorption of carbon dioxide is acidifying the seas. Air and water pollution cause nine million deaths annually, and reports from the World Meteorological Organization and the United Nations Environment Program indicate how close we are to a climate catastrophe. Apocalyptic fires, floods, and storms are increasingly becoming the new norm.

He further emphasized that human activities are driving all these problems towards chaos, and ultimately, establishing peace with nature is the defining task of this century, which should be a top priority for everyone worldwide. He concluded that now is the time to change humanity's relationship with the natural world and with each other, and we must do this. It is the solidarity of humanity. It is the solidarity of survival.

One of the major concerns of this century is the proliferation of destructive and transboundary pollution and the significant degradation of the global environment, a priceless heritage. This issue has

garnered so much attention that, in addition to various documents recognizing and even imposing international responsibility on countries for violating environmental obligations in cases of damage and pollution to neighboring countries, the environmental issue has reached a level of attention where, under the prevention principle, even criminal sanctions have been applied. However, it must be said that criminal protection of the environment is still very limited and is only enforceable within the European Union.

Some of the most important legal precedents in environmental law that have been influential in advancing environmental principles on the international stage include the arbitration tribunal in the United States-Canada Trail Smelter case, the arbitration tribunal in the Spain-France Lake Lanoux case, and the Gabčíkovo-Nagymaros case between Hungary and Slovakia, and the Pulp Mills case between Argentina and Uruguay before the International Court of Justice, the latter two being the only contentious cases resulting in rulings from the aforementioned courts.

In these cases, fundamental principles have been recognized, playing a valuable role in international environmental law, the peaceful resolution of disputes in this area, and the prevention of war and the use of force in international relations. By proposing access to a healthy environment as a human right, this issue has gained special significance. In addition, issues related to environmental pollution, states' obligations and responsibilities, the perception of the environment as a common good, and similar matters have led countries, as the primary creators of international law, to take significant steps toward regulating the behavior of states and other international actors in the environmental field. Consequently, a trend in international law known as international environmental law emerged.

Therefore, the environment has been taken seriously, to the extent that it is no longer limited to peacetime but has also been a focus of efforts in the realm of armed conflict law, with attempts made to protect the environment during wars and armed conflicts, prohibiting states from causing damage to the natural environment.

The aim of this article is to view international environmental law as part of the public order of the global community and its increasing connection with the performance of the International Court of Justice. With the recognition of access to a healthy environment as a

human right, alongside the issue of regulating the behavior of states and other international actors in the environmental field, by considering the environment as a common good, and focusing on issues related to environmental pollution, states' obligations and responsibilities as the main creators of international law in connection with international environmental law, the article examines the specific features of international environmental law in relation to other branches of international law and clarifies the true position of international environmental law. Through this, we will understand whether states and the international community's attention to environmental issues and the related cases before the International Court of Justice significantly impact the development of international environmental law.

Furthermore, to effectively implement international environmental law regulations aimed at protecting human life and preserving the rights of future generations, is achieving solidarity and respecting international environmental values a necessity as states' objective obligations? Moreover, what international rules are the basis for states' international responsibility arising from gross violations of environmental principles? Finally, does the International Court of Justice's adjudication of environmental disputes lead to fundamental changes in international environmental law and the recognition of customary rules related to this field of international law?

Today, for various reasons, environmental concerns have gained increasing importance compared to the past. Widespread environmental changes, on the one hand, and humanity's attention to its right to the environment, on the other, are the main reasons for the attention to this field.

#### 4. Definition of the Environment

In its specific sense, the environment refers to the set of factors that directly and evidently affect the lives and survival of living organisms, such as water, air, soil, and living beings. The European Economic Community Council, in its 1967 resolution, defined the environment as comprising water, air, soil, and internal and external factors related to the life of every living organism. The preamble of the Stockholm Declaration (1972) states, "Man is both creature and molder of his environment, which gives him physical sustenance and affords him the

opportunity for intellectual, moral, social, and spiritual growth." The European Council's proposal regarding the Convention on Civil Liability for Damage Caused by Dangerous Activities to the Environment notes that the environment includes the following components: natural resources, whether renewable or non-renewable, such as air, water, soil, and all animals and plants, as well as the interaction of these factors with one another. It also includes properties and assets that are part of cultural heritage and special landscape views (Charles et al., 2000). The environment is that part of the world where life exists, and humans have made it their living space. The term "environment" is widely understood and easy to comprehend, although providing a comprehensive and precise definition can be challenging. Attention to the elements of the environment is important, including water, air, soil, plants, animals, and all forms of life (Masoudi, 2015).

## 5. International Environmental Law

International environmental law (IEL), as one of the significant branches of public international law, plays a crucial role in protecting the environment and natural resources of the Earth. It is a series of customary and treaty-based international rules, making it one of the newest and broadest branches of public international law, created to regulate the relations between subjects of international law (states, international organizations, and individuals) concerning environmental protection (Farkhondeh Nejad, 2018).

There are numerous definitions of international environmental law. Some define it as "a set of international rules aimed at preventing pollution and protecting the environment" (Arjmand, 1994), while others view it as a branch of international law that "emerged after the 1972 Stockholm Declaration on the Human Environment and deals with environmental issues, sharing some characteristics with international law while also having its own specific features" (Arjmand, 1994).

IEL is an essential domain of international law that addresses the protection of the environment on a global scale, encompassing a set of laws, agreements, and legal norms formulated and enforced by states and international organizations. It has been developed to address environmental challenges such as climate change, air and water pollution, biodiversity loss, and the

unsustainable exploitation of natural resources. The primary goal of IEL is to safeguard the environment, ensure a balance between economic development and the conservation of natural resources, and protect human health and the natural world.

Given the environment's importance for human life and the preservation of natural resources, IEL is continuously evolving. International efforts to establish new agreements and laws, improve the enforcement of existing regulations, and develop new technologies and methods for environmental preservation are ongoing challenges in this field. IEL is based on international legal principles and environmental values. One of its essential features is its international nature, meaning that the Earth and its natural resources have a global dimension, and environmental impacts—whether negative or positive—in one country can affect other nations and regions of the world. For this reason, environmental protection requires cooperation and coordination between countries according to international standards. Additionally, IEL has a global application, meaning that the environment, natural resources, and environmental issues are protected through international laws, regulations, and agreements adopted by the global community. IEL emphasizes the close connection between human rights and environmental protection. Given the critical importance of environmental protection for the preservation of life on Earth, IEL, as one of the key domains of international law, plays a fundamental role in maintaining the balance of ecosystems and natural resources.

## 6. Climate Change as a Threat to International Peace and Security

Climate change poses a threat to human security. Extreme fluctuations in temperature have adverse consequences and may create conditions for conflict and disputes, both domestically and internationally. Climate change can also lead to transboundary migrations. The social consequences of climate change are likely to increase states' failures in ensuring stability and security, resulting in various internal conflicts.

In the first half of 2007, the Intergovernmental Panel on Climate Change (IPCC) released a summary of its fourth assessment report, prepared by three working groups to assist policymakers. For a summary of the assessments of Working Group I (Scientific and Physical Basis),

Working Group II (Impacts, Adaptation, and Vulnerability), and Working Group III (Mitigation of Climate Change), which were provided to the IPCC to aid policy formulation, see: <http://www.ipcc.ch>.

Some findings of Working Group II, titled "Impacts, Adaptation, and Vulnerability," suggested that if climate change is not halted, its negative effects on the environment, such as rising sea levels, desertification, and glacial erosion, may lead to violent conflicts in the future. However, these effects are only the tip of the iceberg, with much more hidden beneath the surface. Undoubtedly, if the negative effects of climate change are combined with factors such as political, social, and military instability, the outcome will only be an exacerbation of ongoing conflicts or the emergence of new conflicts (Tayebi, 2016).

## 7. Evolution of the Concept of International Peace and Security

The most significant reason for recognizing climate change as a threat to international peace and security is the recent evolution of this concept. Until the end of the Cold War, states generally had a narrow understanding of international peace and security, focusing on conflicts between states. However, in 1992, the United Nations Security Council acknowledged that non-military threats could also be considered threats to international security.

The President of the Security Council stated in its 3046th meeting in 1992: "The absence of war and military conflicts between states does not alone guarantee international peace and security. Non-military sources of instability in the economic, social, environmental, and humanitarian fields have become threats to international peace and security" (UN Doc. S/23500. UNSCOR. 3046th Meeting. 1992, p. 3).

In 1994, the United Nations Development Programme (UNDP) shifted the focus from international security to human security, prioritizing the security and well-being of individuals rather than states. Throughout the 1990s, the concept of environmental security emerged alongside human security, and many scholars explored the relationship between environmental degradation and violent conflicts. Nonetheless, until 2000, no non-military threats were explicitly on the Security Council's agenda.

In that year, the issue of the HIV/AIDS virus was recognized as a security threat to the international community, and a resolution was issued on this matter. The issuance of this resolution opened the door for the Security Council to address other non-military threats as international security issues. Therefore, it is unsurprising that a high-level panel on threats, challenges, and changes, formed by the United Nations Secretary-General to redefine the concept of international peace and security, recognized environmental degradation as a potential threat to international security. The panel's report identified climate change as the greatest environmental challenge currently facing the international community (Tayebi, 2016).

Despite uncertainties regarding various aspects of security, it can be said that, given the Security Council's practice, environmental threats such as ozone layer depletion, global warming, deforestation, river desiccation, water pollution with chemicals, and droughts—all of which are, directly or indirectly, caused by human actions—can be considered global security threats (Tayebi, 2016). Fundamentally, the environment is one of the pillars of international peace and security. In 1987, the United Nations General Assembly, in Resolution 186-47, declared that the environment is closely linked to disarmament, the strengthening of peace, and the avoidance of nuclear conflicts. States are compelled to cooperate and consult with one another regarding environmental health. Even in the Hague Declaration of 1989 and the Final Act of Helsinki in 1975, topics such as the preservation of the Earth's atmosphere and the environment facilitated closer relations between the East and West and initiated negotiations (Movahedi, 2011).

## 8. The Role of Climate Change in Causing Domestic and International Tensions

Environmental threats are regarded as a potential and serious danger to the security of states and nations, posing a global threat that requires transboundary solutions. Recognizing climate change as a security threat is a concern that demands studies in security, peace, environmental, and behavioral communication studies. One of the most significant consequences of climate change is the occurrence of numerous droughts, which lead to water shortages in agricultural lands and

other resources, as well as an increase in the migrant population. This amplifies instability and insecurity, jeopardizing environmental adaptability. Scarce resources, population growth, and unequal distribution of resources can be considered drivers of violence and environmental degradation. Therefore, environmental resource shortages, along with other economic, social, and political factors, can lead to war and instability. Economic deprivation resulting from environmental shortages may result in internal conflicts, reducing available capacities and weakening the state, increasing the risk of the emergence of unstable regimes. Furthermore, population disturbances such as migration can disrupt national and international security. This issue is one of the security threats caused by environmental and natural resource shortages, leading to environmental refugees. The Darfur war can be seen as a conflict related to climate change, with Ban Ki-moon, the then Secretary-General of the United Nations, stating: "The root of this war is drought, lack of arable land, and water." The United Nations Environment Programme (UNEP), in its environmental assessment report on the Sudan war, attributed part of the conflict in Darfur to climate change and environmental degradation (Tayebi, 2016). The various consequences of climate change in different areas may create conditions for conflict and disputes, both domestically and internationally. One of the consequences of climate change that fosters international conflict is the issue of transboundary migration. The sharp increase in the number of climate refugees—often referred to as those fleeing from the sun and rain—can lead to further tensions or violent conflicts between countries regarding uncontrolled migration. Therefore, one of the future global conflicts is likely to be between industrialized and developed countries and those developing or poor nations, a conflict for which the international community currently seems unprepared (Tayebi, 2016).

#### **9. Strategies to Address Climate Change for Ensuring International Peace and Security**

It has been noted that climate change is a threat to international peace and security, which has been placed on the United Nations Security Council's agenda. Article 24, paragraph 1, of the United Nations Charter explicitly places the responsibility for maintaining international peace and security on this council, identifying it as the

primary responsibility. The preamble of the UN Charter emphasizes the protection of future generations from international threats and war, which is fundamentally a commitment to fundamental human rights. To achieve this goal, the United Nations introduced the concept of collective security, indicating that today's international and global security threats require the cooperation and assistance of all countries worldwide. Any event or process that threatens human life is thus linked to international peace and security. Environmental threats violate international peace and security, with climate change, as a serious environmental threat, being of particular significance and referred to as a "soft threat." Climate change affects human activities, jeopardizes human health and well-being, and results in unequal access to resources, legal insecurity, the spread of dangerous diseases, mass migration, melting ice caps, salinization of water, and increased flooding. These changes lead to the forced migration of environmental refugees, which the Security Council has described as a threat to international peace and security, potentially serving as a prelude to ethnic and domestic conflicts. To combat this phenomenon, a mechanism should be anticipated, which can be achieved through diplomacy and negotiation. Over time, such negotiations can result in impactful documents, such as the Kyoto Protocol, which was a positive step towards reducing greenhouse gas emissions. Another tool for addressing this issue is the International Court of Justice, which can offer solutions by exercising its jurisdiction. Chapter 7 of the United Nations Charter can serve as a guarantee for enforcing the court's judgments (Ahmadpour, 2001). The United Nations Framework Convention on Climate Change is one of the key documents of international environmental law, calling for the cooperation of all countries and international assistance in addressing this issue. Given that military options are not conceivable for addressing climate change, the Rio Declaration mentioned that war is inherently destructive and endangers peace, development, and environmental protection (Tayebi, 2016).

#### **10. Evolution and Development of International Environmental Law**

International environmental law, as one of the rapidly growing fields of international law, has evolved over time. This field has expanded within the framework of

the concept of sustainable development, developing international environmental rules and regulations. Before World War II, environmental protection in international law was limited and scattered, mostly taking the form of bilateral or multilateral agreements between countries. More serious attention to environmental issues and the formation of modern international environmental law primarily began after World War II, particularly from the 1960s onwards. However, during this period, a comprehensive and systematic approach to environmental protection at the international level had not yet emerged. International environmental law has developed through at least four distinct periods. The first period began in the 19th century with the conclusion of bilateral treaties related to fisheries and ended with the establishment of new international organizations in 1945. The second period started with the establishment of the United Nations and culminated with the United Nations Conference on the Human Environment, held in 1972 in Stockholm. The third period began with the Stockholm Conference and ended twenty years later with the United Nations Conference on Environment and Development in 1992. The fourth period began with the latter conference, known as the "integration period," during which international environmental obligations gained prominence, leading to increased environmental issues being addressed in international jurisprudence (Masoudi, 2015).

### 11. Achieving International Environmental Security

Securing international environmental security, meaning preventing environmental problems from becoming sources of conflict and disputes between states, is one of the primary goals of the development of international environmental law. Although states have paid serious attention to this issue, more steps are required to prevent global environmental disputes from escalating into conflicts and to provide a foundation for the peaceful resolution of international environmental disputes. Given that political leaders worldwide are aware that global environmental problems may pose serious threats to international peace and security, this issue has consistently been a focus of attention (Van Rile, 2000). This was clearly reflected in the final statement of the first summit of the United Nations Security Council on January 31, 1992, which stated: "The absence of war and

conflict between states does not by itself ensure international peace and security. Non-military sources of instability in economic, social, humanitarian, and environmental fields have become threats to international peace and security. Members of the United Nations should prioritize this issue through the United Nations" (Aghaei, 2006). The threats resulting from global warming and the subsequent melting of polar ice caps, which endanger low-lying areas in various countries, are also considered environmental security threats. These threats not only put the lives of the people in a country at risk but can also become sources of international disputes. The Brundtland Commission on Environment and Development also predicted in its final report that global warming, as one of the greatest environmental risks, could lead to international conflicts. For instance, global warming may lead to changes in weather patterns, alterations in agricultural production, the extinction of plant and animal species, and rising sea levels, which will cause significant problems for low-lying countries such as Bangladesh, the Maldives, Egypt, and the Netherlands. These changes, in turn, could lead to major international tensions (Arjmand, 2006).

In the process of developing international environmental law, numerous rules have been established with the goal of achieving international environmental security. For example, the International Law Commission, in a report prepared by one of its members on the rights and duties of states to protect the human environment, recommended not only compensation for environmental damage but also punitive measures such as economic sanctions, restrictions, and the suspension of aid (Van Rile, 2000).

### 12. International Responsibility in Environmental Matters

The primary goal of any legal system is first to prevent harm to the community within its jurisdiction, and then, if harm occurs, to protect the victims on the one hand and deal with those responsible for the damage on the other. International environmental law is no exception to this rule. The primary aim of this law is to prevent environmental damage and, if damage occurs, to provide compensation and address those responsible. The liability and compensation system in international environmental law was created with this objective (Taghi Zadeh Ansari, 2014).

One of the issues related to the environment is the system of environmental responsibility. Since environmental pollution knows no borders, it can spread to neighboring countries and cause damage. Therefore, examining the issue from theoretical and practical perspectives, especially its legal dimensions, is necessary. In such cases, responsibility generally lies with states, but the method of assuming responsibility varies. As in the discussion of liability, both the fault-based and risk-based theories are applied, similarly, in environmental responsibility, different bases of responsibility are considered. Two theories are discussed in environmental liability: the traditional theory, which deals with responsibility after an incident occurs and damage is caused, and the second, more modern theory, which seeks to impose a set of formal and operational obligations on states before any incident occurs. This means that states are required, when implementing projects or activities that could have environmental impacts, to conduct environmental assessments and examine potential damages, as well as inform other states that may be at risk.

### **13. The Commitment and Responsibility of States in Protecting the Environment and Developing International Environmental Law**

States hold significant commitments and responsibilities in the protection of the environment and the development of international environmental law. States are obligated to take all necessary and appropriate measures, within their capabilities and resources, to comply with international environmental standards and bear responsibility for any environmental damage.

States are committed to protecting the environment from harm and destruction, which includes enacting and enforcing environmental protection laws and regulations and monitoring their compliance by citizens and corporations. Additionally, states should cooperate with each other through international treaties, sharing information, conducting joint research, and implementing collaborative programs. States are also obligated to promote sustainable development, meaning that they must give special attention to environmental and natural resource preservation in their planning and policymaking. Moreover, states are required to report their environmental protection efforts to international organizations. These reports help assess state

performance, identify challenges, and propose solutions. In sum, these commitments contribute to the development and strengthening of international environmental law, leading to global environmental protection.

To protect the environment, states must assess the environmental impacts of development projects before implementing them. Such assessments help identify and mitigate the harmful effects of projects on the environment.

One way states protect the environment is through public education and awareness-raising initiatives, which help citizens understand the importance of the environment and their role in its protection. In environmental decision-making, states are typically obligated to ensure public participation to increase transparency and accountability.

In international environmental law, treaty-based obligations play a key role. These obligations arise directly from environmental treaties and bind member states to take measures for environmental protection. Many environmental treaties, such as the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change, impose obligations on member states to protect the environment and natural resources. These include protecting endangered species, managing natural resources sustainably, and reducing pollution. Additionally, many environmental treaties require member states to enact and implement domestic laws related to the treaty, thereby helping achieve the treaty's goals at the national level. In general, treaty-based obligations in international environmental law provide crucial legal frameworks for international cooperation and environmental protection, with many of these treaties emphasizing the necessity of sustainable development.

Examples of such treaties include the 1973 International Convention for the Prevention of Pollution from Ships and the 1972 International Convention for the Prevention of Air Pollution, which focus on marine environmental protection and air pollution reduction.

States play a fundamental role in shaping and promoting international environmental law: by concluding international environmental treaties such as the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement, states create the legal and institutional frameworks to support

environmental protection. States contribute to strengthening environmental protection laws by enacting national legislation in line with international environmental commitments.

States also participate actively in international environmental organizations, influencing new approaches and policymaking in this field. Furthermore, by signing international environmental treaties, states establish legal and institutional frameworks for environmental protection, contributing to the growing body of environmental law. States, as key actors on the international stage, play a vital role in the development of international environmental law. By adhering to shared international obligations and following binding norms in this area, they help foster international cooperation in protecting the environment and advancing international environmental law.

Among the most important actions by states in developing international environmental law is the conclusion of international treaties that lead to the formulation of legal rules for environmental protection, such as the Paris Agreement on climate change and the Convention on Biological Diversity. Additionally, states collaborate with international organizations like the United Nations and its specialized agencies by sharing information, conducting joint research, and implementing environmental protection projects, thereby contributing to the advancement of international environmental law.

Formulating legal rules through international environmental treaties is another significant step taken by states to develop international law, as these treaties are a primary source of international environmental law. Moreover, states actively participate in international environmental organizations, shaping new approaches and policies in this field. By signing international environmental treaties, states create the legal and institutional frameworks for environmental protection, which have fostered the continuous expansion of environmental law. Furthermore, by accepting and implementing international obligations under environmental treaties and conventions, states contribute to the development of international environmental law and are obligated to prevent their territories from being used for activities that violate the rights of other countries, especially in terms of preventing environmental pollution.

#### **14. The Role of the International Court of Justice in Protecting the Environment and Developing International Environmental Law**

The International Court of Justice (ICJ), as the judicial body of the United Nations, plays a significant role in the development and strengthening of international environmental law through the interpretation and clarification of key environmental principles such as the principle of prevention, the precautionary principle, and the principle of sustainable development. It does so through its rulings, resolving environmental disputes between states and preventing them from escalating into military conflicts, emphasizing the necessity for states to uphold their environmental obligations, including those under international conventions. The court also pays attention to environmental considerations in other areas of international law, such as the law of armed conflict, strengthens the principle of state responsibility for transboundary environmental harm, helps shape and develop international environmental jurisprudence, and encourages states to join and comply with environmental treaties. These actions have gradually strengthened the role of environmental law within the international legal system and increased global attention to environmental issues.

The ICJ plays a crucial role in the development of international environmental law. Through its judicial rulings and advisory opinions, the ICJ has helped strengthen environmental legal principles. Notable cases include disputes between Argentina and Uruguay over pollution of the Uruguay River and the dispute between Ecuador and Colombia regarding the use of toxic herbicides that harmed the environment.

The court has consistently interpreted and clarified principles such as the principle of prevention, the precautionary principle, and the principle of sustainable development, thereby reinforcing states' international obligations in protecting the environment. Some believe that even without legislative authority, the ICJ can influence international law through its rulings and opinions. In practice, the court has played a significant role in offering a comprehensive interpretation of international law and its development (Falsafi, 2011).

The ICJ often relies on its own jurisprudence, rarely deviating from precedent except in exceptional cases. States and their representatives frequently refer to the court's jurisprudence in their pleadings, and legal

scholars build their arguments based on the court's decisions. The United Nations General Assembly, in its early years, also declared that the court's rulings should, as far as possible, be used in the progressive development of international law.

Notably, the International Law Commission has also relied on the ICJ's jurisprudence. For example, the commission referred to the ICJ's 1951 advisory opinion on reservations to the Genocide Convention when drafting the rules for the 1969 Vienna Convention on the Law of Treaties, which, according to some legal scholars, resulted in a shift from the traditional rule of unanimity in accepting reservations by states in treaties.

Some believe that Article 7 of the 1982 United Nations Convention on the Law of the Sea, regarding the drawing of baselines, was inspired by the ICJ's 1951 judgment in the Fisheries Case between the United Kingdom and Norway. Similarly, Articles 34, 37, and 38 of the same convention, concerning the right of passage through territorial seas and straits, were derived from the ICJ's 1949 ruling in the Corfu Channel Case.

Thus, it can be said that the ICJ, in the process of issuing its rulings and advisory opinions, either confirms or develops aspects of international law. For example, when the court declares that a specific rule has become part of the body of international law, or when it interprets a rule and specifies its scope and application, its impact on the development of international law is significant, with far-reaching consequences (Masoudi, 2015).

One of the ICJ rulings that has contributed to the development of international environmental law is its June 8, 1996 advisory opinion on the threat or use of nuclear weapons, in which the court referenced parts of the declarations from the Stockholm and Rio conferences as customary international law, thereby aiding the evolution of international environmental law (Dehghani, 1996).

### **15. The Interaction Between States and the International Court of Justice in Environmental Protection and the Development of International Environmental Law**

The interaction between states and international courts, such as the International Court of Justice (ICJ) or the International Environmental Court, is vital in protecting the environment. These interactions typically involve the sharing of information, the development of laws, and the

establishment of environmental standards through international conventions, agreements, and protocols. States and the ICJ play an essential role in environmental protection. The judgments and legal precedents established by the ICJ contain new legal principles and rules that contribute to the development of international environmental law. However, state sovereignty has often posed a challenge to the development of this field. When the ICJ departs from its traditional approach, which favors state sovereignty, this challenge becomes an opportunity for the advancement of international environmental law. The issue of environmental protection was first raised in cases such as the Trail Smelter case and gradually developed and solidified through judicial rulings. However, the ICJ continues to adhere to its traditional approach of prioritizing territorial sovereignty, which remains a significant gap in the development of international environmental law. States, by drafting laws and international treaties, provide the legal framework necessary for environmental protection. These treaties cover issues such as climate change, biodiversity, air and water pollution, and waste management. The ICJ, as the highest judicial authority of the United Nations, plays a key role in interpreting and implementing environmental laws. The ICJ issues rulings when disputes arise between states regarding environmental matters.

The enforcement of the ICJ's rulings on environmental issues depends on the cooperation and participation of states. States must make efforts to implement the court's decisions and fulfill their obligations regarding environmental protection. Over the years, the ICJ has issued important rulings on environmental matters, including the case of the pulp mills on the Uruguay River (Argentina v. Uruguay), the nuclear tests case in the Pacific Ocean (Australia v. France), and the case of the dam construction on the Danube River (Hungary v. Slovakia). In these rulings, the ICJ addressed the violations committed by states in environmental protection and ordered them to compensate for the damages caused. However, the enforcement of ICJ rulings faces challenges, including the lack of cooperation from some states, legal and political limitations on the implementation of rulings, and insufficient financial resources for enforcement.

To strengthen the ICJ's role in environmental protection, it is necessary to enhance the court's authority and

jurisdiction in environmental matters, increase international cooperation in enforcing ICJ rulings, allocate sufficient financial and executive resources for the implementation of ICJ decisions, and strengthen the role of international organizations and NGOs in monitoring environmental issues.

States can submit cases related to environmental violations to the ICJ under Article 36 of the court's Statute and accept its jurisdiction for resolving their international disputes. The ICJ's advisory opinions on environmental protection and the rights of future generations highlight the importance of this issue in international law. These opinions can serve as guidance for policymakers and legislators in drafting environmental and sustainable development laws and regulations. They also emphasize that states must give special consideration to the rights of future generations in their decision-making and avoid actions that harm the environment.

Through their legal policies, states contribute to the development and adoption of international environmental treaties, such as those related to climate change, biodiversity, and combating desertification. They also draft national laws to implement their international environmental obligations and establish regulatory and executive bodies to monitor and enforce environmental laws aimed at protecting the environment.

## 16. Conclusion

A historical review of the development of international environmental law shows that factors such as international environmental incidents, public awareness, the political will of states, scientific evidence of environmental degradation, the need for urgent cooperation, and the global community's involvement in specific environmental issues have played a critical role in shaping and advancing international environmental law. The 1972 Stockholm Conference on the Human Environment was a turning point in global efforts to protect the environment and establish international organizations. The 26 principles of the Stockholm Declaration, particularly Principles 21 and 22, which have become customary international law, affirm the right of humans to live in an environment that allows for a dignified and prosperous life. These principles remind states of their responsibility to protect and improve the

environment for current and future generations and propose frameworks for environmental protection.

An analysis of the objectives of the international community in establishing international environmental regulations suggests that the primary goal of international environmental law is to protect the environment and work toward its improvement, ensuring a healthy and vibrant environment for human life on Earth. The second objective is to prevent disputes and conflicts between countries over environmental issues, thereby contributing to international environmental security. Another goal is to facilitate sustainable development, ensuring that while meeting the needs of the present generation, the needs of future generations are also addressed.

States play a central role in the development of international environmental law because the rules of international environmental law govern the conduct and relationships of states regarding the environment and define their rights and obligations in this area. Since states have sovereignty and equal authority in international relations, no law can be established without their consent. Therefore, states always strive to actively participate in international negotiations on environmental issues, express their views, participate in drafting international environmental treaties, sign and ratify them, and implement international environmental rules to protect their interests (Arjmand, 2006).

Without a doubt, the ICJ is neither a legislative body nor is it expected to create laws. However, it can contribute to the development of the law by interpreting and explaining legal rules. The ICJ, through its role in resolving bilateral disputes involving environmental issues between states, can play a part in recognizing and confirming legal issues relevant to international environmental law as an important part of the public order of the international community. Another, albeit less significant, function of the ICJ in developing international environmental law is its authority to issue opinions that declare principles of international law with general applicability, which can be applied to international environmental law issues.

Under the United Nations Charter (Article 96) and the ICJ Statute (Article 65), the court is authorized to provide advisory opinions at the request of the United Nations General Assembly and Security Council on any legal issue. Other UN bodies and specialized agencies, with

General Assembly approval, may also request advisory opinions on legal matters related to their activities. Additionally, the ICJ is aware of the growing importance of environmental issues in contemporary international life and the potential contributions it can make to the development of environmental law. As such, the court recognizes the need to enhance its capacity to address environmental disputes.

Collaboration between the ICJ and states is of paramount importance because it can help prevent environmental damage and protect the global environment by strengthening and developing international environmental law and focusing on the ICJ's decisions and precedents, the implementation of environmental agreements, and the active cooperation of states. In other words, the key role of the ICJ and the cooperation of states in defining and implementing environmental law demonstrates that with the collaboration and interaction of the international community, we can work toward preserving the environment and ensuring the sustainability of the Earth. Such cooperation can also help prevent environmental harm, protect biodiversity, and contribute to environmental sustainability and sustainable development.

#### Authors' Contributions

Authors contributed equally to this article.

#### Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

#### Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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