

# Legal Dimensions of Common Stewardship

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The Book of Revelation illuminates two important concepts characterising the relationship between humans and the environment which can be seen to be relevant to environmental law.

The first is the unity of the world or of what we now call the biosphere. Chapter 10, verses 2, 5 and 8 present the image of:

Another mighty angel come down from heaven ... he set his right foot upon the sea, and his left foot on the earth.

The image of the unity of the sea and earth is complemented by the unity of the whole creation. Chapter 5 verse 13 gives a beautiful representation of this:

And every creature which is in heaven, and on the earth, and under the earth, and such as are in the sea, and all that are in them, heard I saying: Blessing, and honour, and glory and power, be unto him that sitteth upon the throne, and unto the Lamb for ever and ever.

The second important teaching of Revelation is the responsibility of humankind. In Chapter 11 the seventh angel sounds his trumpet announcing the judgement:

16. And the four and twenty elders, which sat before God on their seats, fell upon their faces, and worshipped God.
17. Saying, We give thee thanks, O Lord God Almighty ... because thou hast taken to thee thy great power, and hast reigned.
18. And the nations were angry, and thy wrath is come, and the time of the dead, that they should be judged, and that thou shouldest give reward unto thy servants the prophets, and to the saints, and them that fear thy name, small and great; and shouldest destroy them which destroy the earth.

The wretched are punished by the destruction of what today we would call natural resources and life-support systems: the sea (Chapter 8:8-9, 16:3), the earth (Chapter 6:12-14; 7:1-3; 8:7; 11:6; 16:2, 18, 20), the rivers (Chapter 8:10-11; 16:4, 12) and even the sun and the stars (Chapter 6:12-13; 8:12; 16:8). These texts implicitly stress the unity of the whole creation.

How can law, particularly international law, build on these two concepts? As a first step we must consider the nature of law.

It is generally agreed that one of the main functions of every legal system, whether national, regional or world-wide, is to reveal, recognise and incarnate the basic values of the society concerned. Thus, throughout history it has been recognised that human life is of value and should be protected by punishing those who attempt to extinguish it; that fundamental human rights and freedoms are precious and should be protected; that social justice must be accepted as a goal and appropriate measures to achieve it should be taken at national as well as international levels. The legal system did not create these values; they emerged gradually from the religious, ethical and cultural foundations of societies. The legal system brought these values into the open by discussing them, recognising them and then taking appropriate measures to protect them by the only means at its disposal. Within states this process is characterised by the inclusion of principles enshrining these values in constitutions or constitutional texts, which have to be implemented by specific legislation. In the international sphere the values are often formulated and enshrined in non-binding declarations (such as the Universal Declaration of Human Rights), the principles of which are later transformed into obligatory statutes by inserting them into treaties.

This pattern was followed for the environment. Through scientific knowledge and the general understanding that natural resources are being depleted and even clean water and air are becoming scarce in certain areas, we have become much more aware of the value of the environment. We are beginning to recognise our responsibilities as human beings towards one another and towards the rest of the planet, and to realise that society must value and protect the environment.

This, described in a very simplified way, is the origin of environmental law. However, this new branch of legal science - and national and international legislation - presents several characteristics which do not naturally fit into jurisprudence. One of these is the temporal dimension which is a fundamental

element of environmental protection. It is often considered that law has the function of assuring a certain social stability and, as a consequence, it must focus on safeguarding present situations. Environmental protection requires a constant adaptation of the statutes to changing circumstances, including new discoveries and new forms of depletion of the biosphere.

In addition, the protection of Nature and its resources cannot be concerned exclusively with the present. The very idea of conservation implies a temporal dimension, a care for the future. A conscious decision to abstain from exhausting the world's natural resources, instead of enjoying to the maximum the possibilities which they present us with today, necessarily involves thinking about the future.

The first step in this direction is the requirement that deterioration of the environment should be prevented and therefore foreseen and assessed. An advanced form of prevention was developed in international environmental law, in the precautionary principle:

Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. (Rio Declaration of June 1992, principle 15)

Such a principle implies the necessity to identify scientific uncertainty and to predict serious or irreversible damage. The latter clearly has a temporal element which can lead us somewhat beyond the traditional legal concepts of liability and even of responsibility.

The temporal dimension of environmental law is even more apparent in the principle of the rights of future generations, which emerged alongside realisation of the need to protect the environment. According to Principle 1 of the 1972 Stockholm Declaration on the Human Environment:

Man ... bears a solemn responsibility to protect and improve the environment for present and future generations.

The same principle has been re-affirmed by numerous international treaties and other instruments.

The rights of future generations are rooted in psychological and ethical factors. All living species instinctively seek to ensure their own reproduction, and the more developed of them make provision for the future welfare of their descendants. Human history testifies that the instinct to care for children, and for their children in turn, is a part of human nature. Ethical considerations dictate that, for the sake of fairness, the wealth which we have inherited from previous generations should not be dissipated for our own convenience and pleasure, but passed on, in as great a measure as possible, to those who follow us. The term 'intergenerational equity' has been used to convey this concept.

However, the concept of 'future generations' is difficult to define. It certainly does not imply that when a new generation appears the existing one disappears. Every second hundreds of human beings are born and die and more than five billion people of all ages co-exist at present. It would be more accurate to speak not of generations but of a constant flow: humanity can be compared with a huge river which flows ceaselessly, becoming ever larger, and in which no distinction can be made between the drops of water which make it up.

The logical consequence of such an approach would be to recognise humankind, in the present and the future, as the guardian of rights. In principle this understanding could be recognised under international law. It implies the individual responsibility of every person for safeguarding the environment in the present and passing it on to future humanity.

It must be added that since the middle of the 1980s we have known that safeguarding the environment requires global approaches. We are reminded again of the Book of Revelation, which proclaims the unity of the universe. As a consequence, individual responsibility must be concerned with the protection of the global environment, by all appropriate means. The World Charter for Nature, adopted and solemnly proclaimed by the UN General Assembly on 28 October 1982, states that each person has a duty to act in accordance with its provisions, acting individually, in association with others or through participation in the political process (UN General Assembly Resolution 37/3, principle 24).

However, environmental law cannot restrict itself to proclaiming principles. It must also establish appropriate legal procedures through which the representation of the rights and interests of humankind can be ensured.

In relation to this, in 1989 the establishment of a Commission on the Future of the Planet was proposed (E Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony and*

*Intergenerational Equity*, p.148-152). Unfortunately the 1992 Rio Conference failed to get involved in such considerations and the bodies which were created were either inappropriate or powerless.

Considering the serious warning in the Book of Revelation concerning the destruction of the environment by humans, one could imagine that the 24 elders of the Apocalypse - perhaps significant in being twice the number of the tribes of Israel or of the number of the disciples - might represent the world's population.

It has been proposed several times to set up an independent body, the composition of which could make one think of the elders 'clothed in white raiment' in Revelation, Chapter 4:4 - perhaps a reference to their very high moral status! Although its role should not be to judge the governments of different countries, but to invite them in specific cases to think and to act for the long term, such a proposal is not likely to be accepted during the coming years by sovereign states, which dislike any intervention in their policies. Nevertheless, the Book of Revelation is very clear on the responsibility of those 'which destroy the earth' (Chapter 11:18). One of the prophetic tasks of the world religions could be to remind them of their responsibility.