

# The Effectiveness of the International Environmental Law: The Issues of State Sovereignty, National Interests, and Differing Levels of Commitments

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## Abstract

*This study aims to explore the main challenges facing international environmental law and affecting its effectiveness. Although many international texts and agreements have been adopted to address environmental degradation and promote sustainable resource development, most of these agreements remain ineffective in achieving the objectives of these agreements. The critical study reveals that these legal frameworks face many challenges that affect the effectiveness of these texts, for example, there are issues such as national sovereignty, the lack of unified implementation at the state level, insufficient funding, and weak institutional frameworks. This study aims to provide a comprehensive analytical view of the factors that affect the effectiveness of these texts and frameworks. The issues of national sovereignty, insufficient funding, weak institutional frameworks, different levels of commitment, lack of political will, and global cooperation will be mainly discussed here. By focusing on the most important challenges facing international environmental law, this research aims to contribute to developing international environmental law to make it more effective.*

**Keywords:** *International, Environment, Law, Effectiveness, Sovereignty, National, Interests.*

## Introduction

International environmental law is considered the cornerstone of global environmental governance (Yu, 2022), and it intersects with key areas such as trade, human rights, and public health (Albakjaji, 2023). Although international environmental law has developed substantially over the years, it has not been as effective as it should be in addressing global environmental degradation, and its effectiveness has faced many challenges, especially in areas such as air pollution (Yamineva, 2017). For example, the Kyoto Protocol, which aims to protect the air and reduce greenhouse gas emissions, contains weak enforcement provisions, which has affected its effectiveness and the goals for which it was adopted (Victor, 2002). The study of the effectiveness of the international environmental regime is relatively recent but has attracted significant attention due to increasing environmental degradation (Yu, 2022). Issues such as global resource depletion and pollution have become important topics in international relations (Alsamara et al., 2022). International environmental law aims to provide a legal framework to address the negative impacts of human activities on nature. However, it has been shown that there are many challenges and factors that have affected the effectiveness of this law, raising questions about its adequacy and effectiveness (Alsamara and Ghazi, 2024).

This research aims to study the effectiveness of international environmental law in addressing environmental challenges, especially the factors that affect its effectiveness. While international law is essential and fundamental to protect the global environment, it has not been as effective as it should be in solving these issues of global environmental degradation.

This study will focus on the main challenges facing the effectiveness of international environmental law. The main objective of examining its effectiveness is to provide a comprehensive view of the reasons for the failure of international environmental law to address critical global issues such as climate change, pollution, and others.

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## Research Methodology

The research will provide an analytical and critical study to explore the most important challenges facing international environmental law and limiting its effectiveness. To achieve this goal, the author uses primary and secondary data. Primary data consists of legal texts and judicial cases to provide an analytical overview of legal provisions and other texts.

In addition, the author has used secondary data extracted from books, academic journals and reliable online sources to provide diverse perspectives on the topic. This will help in assessing the effectiveness of international environmental law.

The paper addresses the following research questions: How effective is international environmental law in addressing global environmental challenges, and what are the main obstacles affecting the adequacy and enforcement of these regulations? To provide comprehensive answers, the first section will explore the main challenges and factors affecting the effectiveness of international environmental law. The researcher will examine the main factors that hinder the effectiveness of international environmental law such as the issues of lack of binding rules, national sovereignty, insufficient funding, weak institutional frameworks, different levels of commitment, lack of political will, and global cooperation. The paper will conclude with a summary of the research findings and a set of recommendations.

### *International Environmental Law*

#### *Definition*

International environmental law is a tool for monitoring and protecting the global environment. Therefore, the international community creates its rules, and they are applied on the territories of states. The sources of international law vary between international agreements and treaties, customary international law, and principles of international law.

International environmental law is a series of rules and agreements that regulate activities and relations between states with the aim of preserving the environment and shared natural resources. The most important global environmental issues addressed by international environmental law are pollution, climate change, global natural resource governance, and loss of biodiversity.

#### *Principles*

The most important basic principles of international environmental law are:

Sustainable development, which aims to protect shared natural resources for the benefit of current and future generations by achieving a balance between environmental protection and economic growth.

The precautionary principle: which requires taking precautionary measures when an activity threatens to harm the environment or human health.

The polluter pays principle: which means that the state responsible for pollution bears the costs of removing its effects and managing its environmental impact.

Common but differentiated responsibilities: This principle recognizes that all states are responsible for protecting the environment and addressing global environmental degradation. However, the responsibility here is not equal among all states, due to differences in levels of development between states and their contributions to environmental problems.

Public participation and access to information: This principle requires environmental decision-makers to adopt transparent processes that ensure everyone has access to information and participation in decision-making.

Major international agreements: United Nations Framework Convention on Climate Change (UNFCCC, 1992): which aims to combat climate change and reduce greenhouse gas emissions. The main features of this agreement include the Kyoto Protocol (1997) and the Paris Agreement (2015).

Convention on Biological Diversity (CBD, 1992): aims to protect biological diversity, ensure its equitable and sustainable use for the benefit of present and future generations, and other goals related to biological diversity.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 1973): This agreement aims to regulate and govern international trade in species threatened with extinction due to misuse resulting from international trade.

Basel Convention (1989): This agreement aims to ensure safe waste management during transboundary movements of hazardous wastes. It controls the transboundary movement and disposal of hazardous wastes, and ensures that wastes are managed in an environmentally safe manner.

Although international environmental law appears to be theoretically complete, there are many challenges that have limited its effectiveness. These challenges have sometimes made international environmental law unable to address some global environmental issues.

#### *State Sovereignty, National Interests, and Differing Levels of Commitment*

##### *State Sovereignty and the National Interests*

One of the main challenges facing the effectiveness of international environmental law is the principle of state sovereignty.

International texts recognize the right of states, as sovereign entities, to exploit their natural resources, including United Nations General Assembly Resolution 1803 (1962), which affirmed the principle of permanent sovereignty of the state over its natural resources. The problem here is that the priority of most of these states is to focus on economic growth rather than environmental sustainability.

This in turn creates a conflict between national priorities and global environmental goals. For example, during the negotiations of the Paris Agreement, there was great resistance to adopting strict texts, especially by fossil fuel-producing countries due to fears that joining this agreement would lead to economic losses.

Also, with regard to integrating political development goals into national systems, national sovereignty represents a major challenge to this integration. This failure is primarily due to the division of priorities between states and the desire of states to assert their sovereignty over their natural resources by practicing activities that they see as consistent with their priorities. Economic interests are often the motivation behind designing environmental policies (Bogers, 2023). This in itself is a major challenge to international environmental law, as many countries find these international texts as an infringement on their sovereignty over their natural resources and their right to exploit them in a manner consistent with their national economic interests (Virginie, 2016).

A clear example of the division and difference in priorities between countries is deforestation. Countries rich in natural resources face pressure to exploit these resources for immediate material gains, even if this conflicts with their environmental obligations. For example, Brazil is trying to impose its sovereignty over the Amazon forests within its geographical scope and is trying to give priority to national and economic requirements, driven by short-term economic needs, over long-term environmental sustainability (Diana, 2023). Therefore, the priority in such countries is the economic development of these countries rather than focusing on global sustainable development (Adriana, 2019).

The problem is that most international environmental agreements are formulated in a way that makes them non-binding without including punitive provisions in order to encourage the largest possible number of

states to join them. States often face limited liability if they fail to implement their obligations. This is what we find, for example, in the Paris Agreement on Climate Change, where this flexibility led to insufficient financial support for activities required to mitigate the effects of climate change, especially in poor and developing countries, which makes it difficult for these countries to overcome the challenges of climate change (Khan, 2015). Moreover, the United States, as one of the largest emitters of gases, did not have the will to adopt agreements on climate change, which in turn affected the effectiveness of this agreement and made it limited (Maljean, 2004).

International environmental law often lacks serious political will among states. Environmental problems are global in nature and require a high level of effort and cooperation among governments. However, many governments, especially those engaged in dangerous activities to further their economic interests such as fossil fuel extraction or industrial activities, are lax in adopting or enforcing strict environmental laws and regulations. This laxity is often due to a focus on economic growth.

In addition, global environmental governance often faces challenges that affect its effectiveness, such as the North-South divide and the disparity in goals, as developing countries argue that developed countries have a greater global responsibility because they are largely responsible for global environmental degradation. This division has led to the creation of divisions and differences in viewpoints during international negotiations, which in turn has hindered the progress of international environmental agreements.

#### *The Issue of Binding Rules*

One of the most important challenges facing the effectiveness of international environmental law is the lack and weakness of binding texts. Although there are agreements, many of them lack the element of bindingness or are formulated in the form of soft law, meaning that they provide guidance rather than imposing legal obligations on states. This of course reduces the importance of these texts and their ability to oblige states to adopt basic and consistent measures. For example, the Paris Agreement on climate change aims to reduce carbon emissions, but the commitments contained therein are largely voluntary texts that are closely linked to national discretion (Bialek, 2015).

Moreover, the difference in national orientations and national interests hinders the creation of globally binding texts that suit all states. For example, although many states recognize the importance of environmental protection, financial and economic interests often take precedence.

The lack of binding texts has weakened the global cohesion required to protect the environment and address global challenges such as deforestation, pollution, and species extinction. This constitutes a major obstacle to the adoption of effective treaties and the creation of coordinated cooperation between different international frameworks (Stranadko, 2022).

The adoption of many global environmental agreements has raised concerns about the ability of states to abide by their commitments. Even with the establishment of unified global environmental treaties or perhaps even international environmental law, this will not change much. This is absolutely impractical, as establishing a unified international agreement is a difficult goal to achieve due to the differences in priorities, interests, and divisions between states. For these reasons, many scholars and researchers have called for resorting to soft law, which provides informal rules but includes rules that help enhance cooperation between states (Albakjaji et al., 2021).

The problem is that most international environmental agreements are formulated in a way that makes them non-binding without including punitive provisions in order to encourage the largest possible number of states to join them. States often face limited liability if they fail to implement their obligations. This is what we find, for example, in the Paris Agreement on Climate Change, where this flexibility led to insufficient financial support for activities required to mitigate the effects of climate change, especially in poor and developing countries, which makes it difficult for these countries to face the challenges of climate change (Khan, 2015).

The Kyoto Protocol provides another example of the obstacles and challenges facing international environmental negotiations. The beginning of the negotiations was in 1992, which were characterized by slow procedures and delays in adopting and ratifying texts. Most of the texts were vague and modest, in addition to the weakness in monitoring and following up on implementation, which were among the most important obstacles that hindered the success of the Kyoto Protocol. Moreover, the United States, as one of the largest emitters of gases, did not ratify this protocol, which in turn affected the effectiveness of this agreement and made it limited (Maljean, 2004).

### *Differing Levels of Commitment*

Regarding the differences between countries in implementing commitments, the disparity is usually due to differences in economic capabilities between countries and differences in environmental priorities between them, as well as differences in the level of commitment to international agreements. Poor and developing countries, which are more vulnerable to environmental degradation, often lack the basic financial resources to implement their environmental commitments as required. In contrast, developed countries with financial resources face internal pressures to implement economic policies and avoid implementing strict environmental measures. This difference was evident during the negotiations of the Kyoto Protocol and the Paris Agreement. This difference poses a serious challenge to the comprehensive sustainable development goals (Bogers, 2023) and also hinders consistent progress on these development goals at the global level (Forestierr and Kim, 2020 & Hiron, 2020 & Craig, 2019).

In addition, even if developing countries obtain financial support from donors, there is a major challenge in utilizing this support due to the difference between national priorities and the requirements of international funds such as the Green Climate Fund (Wu, 2022).

In addition to the obstacles mentioned above, poor coordination between national agencies is considered one of the most important challenges facing the effectiveness of environmental systems. For example, climate change administrations in developing countries lack the resources and expertise necessary to coordinate effectively with relevant governmental and non-governmental actors.

Also, international organizations responsible for managing funds suffer from inefficiency, which in turn undermines the effectiveness of international environmental law (Peterson, 2013 & Young, 2002).

## **Conclusion and Recommendations**

International environmental law has proven ineffective in addressing pressing global environmental issues. This decline is due to a number of challenges that have affected its effectiveness. These challenges include differences in priorities between countries, enforcement mechanisms, concerns about national sovereignty, insufficient funding, and weak institutional frameworks that lack the element of obligation.

The absence of mandatory enforcement mechanisms often allows countries to select goals and texts that suit their economic interests. In addition to concerns about national sovereignty, countries rich in natural resources resist asserting their sovereignty over their resources and exploiting them in a manner that suits their priorities. Moreover, weak financial funding and the lack of institutional coordination between local bodies related to the environment have significant impact on the effectiveness of international environmental rules. .

Because of these obstacles, there are calls for the need to adopt comprehensive reforms and new policies that enhance the principle of accountability and ensure the equitable distribution of resources. Confronting these obstacles has become urgent today to achieve comprehensive development goals. This in turn will contribute to protecting the planet and protecting the resources needed to improve the quality of life for future generations.

To enhance the effectiveness of international environmental law, the researcher proposes the following recommendations:

**Strengthening implementation tools:** by adopting binding provisions to ensure that countries comply with their commitments in international agreements. In addition to adopting deterrent penalties for non-compliance. Given that implementation is closely linked to enhancing transparency, enhancing transparency allows for tracking levels of achievement of environmental goals, tracking shortcomings, and non-compliance between countries.

**Strengthening and supporting coordination and cooperation between relevant institutional bodies:** This cooperation between international organizations and governmental and civil bodies will certainly enhance global environmental governance to achieve sustainable environmental development goals.

**Providing financial and technological support:** especially by increasing support provided by developed countries to poor and developing countries. Also, this assistance should be in forms other than loans, such as grants based on implementation, which ensures that financial burdens are not created on developing countries, which usually push them to exploit their natural resources to meet their financial burdens.

**Creating a balance between national sovereignty and global environmental obligations:** This is achieved by encouraging countries to participate effectively in diplomatic forums and international negotiations that focus on the mutual benefits of environmental cooperation.

**Enhancing public awareness of environmental issues:** This comes through adopting new decision-making mechanisms through which local communities and non-governmental organizations are involved in these processes, which will make them an important part in implementing comprehensive environmental development goals.

By confronting these obstacles, the effectiveness of international environmental law will be greatly improved, which will enhance access to comprehensive sustainability.

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