

BIO-SECURITY - LEGAL DIMENSIONS

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In our contemporary world we are faced with many different global problems. One of the most important and fragile, is that of the world's ecosystem. Here all contradictions between man and his environment are reflected, so it is necessary to recognise the existence of bio-security or ecological security as utmost importance to humanity.

Many and varied factors influence man's behaviour within the human environment, and thus different dimensions must be scientifically developed. When we are searching for methodology in this area we see how difficult it is to define and find the essence of the problem. That is why, in legal dimensions, we should develop a general base and then consider how the ecosystem needs legal solutions within the international community. Allow me to present some methodological remarks on the topic under discussion.

In the report of the World Commission on Environment and Development, (WCED) entitled *Our Common Future* we read, inter alia: "It was an urgent call by the General Assembly of the United Nations: to help define shared perception of long-term environmental issues and the appropriate efforts needed to deal successfully with the problems of protecting and enhancing the environment, a long-term agenda for action during the coming decades, and aspirational goals for the world community."¹

This goal of promoting public opinion on environmental questions is linked with the need to define bio-security or eco-security as a value not only within international relations but also within society as well. We can define it as a sustained and durable process progressing towards the achievement of a desirable environmental condition and securing the peaceful and healthy existence of all ecosystem elements, using different measures based on the principles of internal co-existence and the international community.

Such a definition implicates researches on ecological security firstly, as interdisciplinary, secondly, as system research, and thirdly, in a large international context. This point of view is determined by the actual state of scientific development and political conditions of the contemporary world. The barriers which arise in the realisation of postulates following the preservation of ecological security are the consequence of complex global links. One could say that ecological security has more importance than the above political system. The environment has no political borders and the results of environmental disturbances affect the global character.

Nations and states must now confront and recognise the growing problem of the ecological situation. International co-operation must be significantly strengthened, not only in the political forum but within the precincts of international law as well. The international community should develop environmental foreign policy through such channels as governments, international organisations and international law.

There is a great necessity for such development not only in theory but in political practice as well. Faced with different national interests in the international forum, there is always a risk of conflict through transboundary pollution of the environment. Those conflicts can not only be bilateral, but are sometimes multinational in scale. The following scheme shows such links.

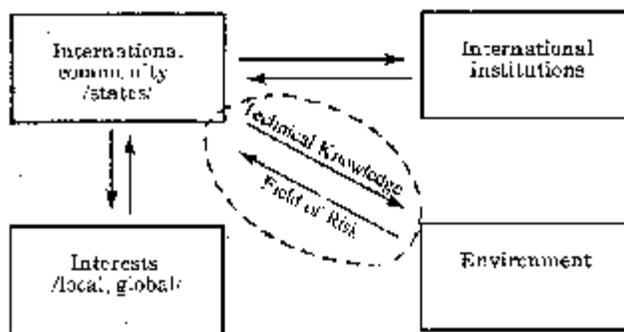


Figure 1: Field of the risk of conflicts (environmental dimensions)

The activities of the international community towards minimising the negative ecological results, limit freedom of activity in some sections of international relations, especially of states. It is necessary to recognise not only the social forces within a country but also the international public opinion. Decision-making centres are determined by the ecological security within international relations. There are situations in which efforts for realisation of needs and national interests are in opposition to the ecological question, and those situations can create international

conflicts, e.g., the so-called "Cod war" between Iceland and the United Kingdom, disasters involving oil tankers at sea in different regions of the world, tests on new nuclear weapons, etc..

In the last chapter of CSCE, Final Act, Cooperation in the field of economics, of science and technology and of the environment, signatory parties stated that "the protection and improvement of the environment, as well as the protection of nature and the rational utilisation of its resources in the interests of present and future generations, is one of the tasks of major importance to the well-being of people and the economic development of all countries and that many environmental problems, particularly in Europe, can be solved effectively only through close international cooperation."²

In the context of the legal dimensions of the protection of the environment, Final Act from Helsinki presents the view that "each of the participating states, in accordance with the principles of international law, ought to ensure, in spirit of co-operation, that activities carried out on its territory do not cause degradation of the environment in another state or in areas lying beyond the limits of national jurisdiction".³

So we can see a tendency to close international responsibility for the ecological security. It seems to be very natural that the success of any environmental policy presupposes that all population groups and social forces, aware of their responsibilities, help to protect and improve the environment. This necessitates continued and thorough educative action, particularly with regard to youth. In Poland this is called "ecological education".

Since the CSCE adopted Final Act, we have seen more action in the field of environmental politics, as well as in the legal area. The world became wiser and more fragile for every disequilibrium in the human environment. We all agreed that environmental dimensions should be considered together with economic, agricultural, commercial and others, within the international community and its international institutions mainly in the United Nations, and specialised agencies. The report, Our Common Future, proposed some significant institutional and legal changes at national, regional and international levels. All of them are embodied in six priority areas:

- obtaining the sources;
- dealing with the effects;
- assessing global risks;
- making informed choices;
- providing the legal means, and
- investing in our future.

Together, these priorities represent the main directions for institutional and legal change needed to make the transition to sustainable development. Concerted action is needed in all six areas.

When we observe a tendency to establish new legal levels of co-operation among states in environmental problems, we must not forget conflicting interests of different countries. As mentioned above, there is always the possibility of regional or global risk of conflict. Many of them are fact, and can become a future reality. It is certain that the numbers, scale, frequency, and impact of natural and human-caused disasters are increasing.

Some examples we can see regionally, such as acidification, desertification, or deforestation (as in Central Europe). On a global scale, it can be exemplified by ozone layer depletion and climate change. The question now is how close international community co-operation can be significant in this field?

Firstly, it is necessary to add environmental dimensions to the political negotiations where decisions of the creation of new conventions in the environmental sphere are adopted. Secondly, international law has to recognise the significant and essential role of the environmental factor in international relations. Thirdly, it takes only one step to develop research on links between the environment and the sovereignty of the states. It is so essential, that we can say that through transboundary pollution of the environment arises the necessity to establish an international commission to test potential sources of pollution in the air, water or soil. The whole sphere of monitoring pollution in the environment makes many governments aware of the partial loss of their sovereignty, and they do not allow such monitoring on their state territory. There is always possible monitoring through satellites, but they are usually not at the disposal of the international community or its institutions. Such monitoring in the international community for special purposes as, for example, ocean pollution, is more feasible than establishing international groups of experts and allowing them free control on state territory. Some very positive examples can be seen in the work of the International Atomic Energy Agency in the case of nuclear power plant disasters, for instance, after Chernobyl.

The accident at the Chernobyl Nuclear Power Station in the Soviet Union, on April 26 1986, visibly underscored the international dimensions of nuclear safety. Collective international action is needed to ensure the consistent and worldwide record of excellence in nuclear safety which is necessary for public support of nuclear power development.

The events at Chernobyl gave the world its first real encounter with a severe nuclear power plant accident and implications that went beyond

national boundaries. Until then, nuclear power plants worldwide, had accumulated nearly 4000 reactor-years of good safety and environmental records over three decades. The other serious accident, occurring at Three Mile Island in the United States on March 28 1979, had disastrous economic repercussions for the power company concerned, but involved no injuries or significant releases of radioactivity to the environment. For the International Atomic Energy Agency (IAEA), the Chernobyl case demonstrated the value of a recognised international focal point that Member States could turn to confidently for assistance in addressing nuclear power issues. Largely through the combined efforts of its Member States, the IAEA has been able to serve as a valuable instrument of global co-operation through which common problems and approaches to solutions can be identified and pursued. Whereas matters of nuclear safety remain principally the responsibility of national governments, co-operation through the IAEA is providing a much needed international perspective to ensure the safe and peaceful uses of nuclear energy worldwide.

Since the early 1980s, the IAEA has strengthened its safety evaluation and information exchange services for nuclear plant operations and radiological protection, in response to the needs of Member States and international developments. These impartial reviews are not an international regulatory inspection; they can complement, but never replace, the activities of national regulatory bodies and the responsibility of governments for nuclear safety. The IAEA programmes are as follows: OSART (Operational Safety Review Team); OSIP (Operational Safety Indicators Program); IRS (Incident Reporting System); ASSET (Assessment of Safety Significant Events Team); INSARR (Integrated Safety Assessment of Research Reactors); RAPAT (Radiation Protection Advisory Team).

The IAEA can be a good example for legal dimensions of environmental problems because this agency has developed complementary documents that constitute an internationally acceptable frame of reference for the safety of nuclear power plants. Completed in 1986, the Nuclear Safety Standards (NUSS) programme is a valuable resource that Member States have widely used to establish national regulations, and for training.

Two types of NUSS documents are available:

- Five "Codes of Practice" establishing minimum basic requirements for governmental organisation, siting, design, operations, and quality assurance; and
- 55 supplementary "safety guides" recommending procedures and methods for implementing the requirements.

Two international conventions - on early notification of a nuclear accident and on assistance in the case of a nuclear accident or radiological emergency - were adopted by the IAEA General Conference in September 1986, only five months after the accident at Chernobyl. The two conventions have been signed by the Member States. These agreements were produced in record time not only because they had been foreseen, but because the time was ripe for countries to work together towards a worldwide system for transmitting well-defined and reliable information about nuclear and radiological accidents with real or potential implications for many countries and for co-ordinating assistance.

Governments today recognise the international dimensions of nuclear safety, and have expressed a strong interest in international measures to ensure that nuclear safety is at a consistently high level everywhere. The IAEA is the instrument through which international co-operation on matters of nuclear safety has been promoted and implemented for three decades. Today this instrument is more useful than ever before.

But the IAEA is not the only instrument for establishing new conventions. The work done by the Economic Commission for Europe within the United Nations was exceptional, as was the Transboundary Air-Pollution Convention. Especially in Europe, where we are faced with high forest pollution, we can be certain that parties of that convention will do all they can for its realisation.

We have to recognise that there is an urgent need proposed by the report Our Common Future:

- to recognise and respect the reciprocal rights and responsibilities of individuals and states regarding sustainable development;
- to establish and apply new norms for state and interstate behaviour to achieve sustainable development;
- to strengthen and extend the application of existing laws and international agreements in support of sustainable development; and
- to reinforce existing methods and develop new procedures for avoiding and resolving environmental disputes.

Principle 1 of the 1972 Stockholm Declaration said that "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being." This principle has been recognised in several states as the constitutional right to live in an environment adequate to man.

The proposals to establish universal documents on the environment seem to be rather ineffective. We observe much more effective results in international relations when we create particular international norms. There are always contradictions between a man's hopes and reality. The same can be seen in international law. We create universal norms but in fact, not every state would like to participate. It is not irrelevant to a matter of environment, from the axiological point of view, if the political national security is complemented by the ecological security, but there is also conflict between the aspiration to be secure as a sovereign state and also ecologically. The right to live in a healthy environment is universal but the state or national interests are not always compatible. Here is a risk of conflict among states in the international relations, as was shown in Figure 1.

In conclusion, I chose a philosophical remark rather than a legal one. If we recognise the term "bios" as more apt than "environment", it is impossible to believe that our behaviour towards each other through different channels around us could exist without ecological ethics. That is why the concept of ecological security in international relations is so interdisciplinary and difficult. We accept a large context of its existence and own capacity as value in the international relations. Sometimes it is natural that people believe that law, and legal solutions are more valuable for them because the power of state administration is behind them. Thus there is a great responsibility for international law in the field of the environment, the responsibility not only for present but for future generations as well.

New ecological thinking, new legal instruments, new administrative measures are all needed. It is the job of our time and our generation. The great Polish economist, Professor Oskar Lange, once wrote that there is a contradiction between man and nature. So if we recognise that this contradiction truly exists, we are wiser. Our task and goal is not to destroy our environment, but to save it through our laws, if the collective consciousness of the people is poor. It is better to have such law before we can educate the young generation about the environment, and prepare them for living in peace. The Romans said *Dura lex sed lex* and our hard law is to preserve our environment.

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3. Ibid.

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