

The Earth Charter:

From Global Ethics to International Law Instrument

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II- Ecological Integrity

5. Protect and restore the integrity of the Earth's ecological systems, with special concern for biological diversity and the natural processes that sustain life ([The Earth Charter](#))

In 1972 the nations gathered at Stockholm agreed that environmental protection should be added to the core agenda of the United Nations, together with peace, human rights, and equitable social and economic development” (Rockefeller, 2002:xi). This belief was emphasized and supported by many at the 1992 [Earth Summit](#) at Rio de Janeiro. In 1994, the [Earth Charter Initiative](#) worked to develop a document that would start by accepting the complete interdependence of humanity with the global natural systems, and that would involve all countries and nationalities from both the North and the South. As Rockefeller explains it,

The product of a decade long, world-wide cross-cultural dialogue on shared values, the [Earth Charter](#) reflects an effort to build on and further develop the ethical visions in the Stockholm Declaration (1972), the World Charter for Nature (1982), the Rio -Declaration (1992), and a variety of non-governmental covenants and declarations (Rockefeller, 2002: xii).

The [Earth Charter](#) is an “ethical vision”, but it is also a compendium and reworking of soft law. In addition, the International Draft Covenant of Environment and Development (2000 Revision), is presently under consideration at the IUCN, and its wording is being reviewed by an IUCN-CEL Committee, to ensure that the main principles of the [Earth Charter](#), are preserved within it. After the Committee's work is completed and the Covenant manifests as much as possible the spirit, if not the letter of the [Earth Charter](#), in its Articles, the IUCN will ensure that it is presented for ratification to all states, as it proposes to bridge “the sectors of environment and development (Edith Brown-Weiss, Covenant, Foreword).

The Covenant is thus intended to regulate “relations between humankind and nature” (UN Secretary-General Report, p.18), and to create “an agreed single set of fundamental principles like a “code of conduct...which may guide states, intergovernmental organization and individuals” (Covenant, p.14). Turning now to specific provisions of the Covenant, both [Objectives](#) and [Fundamental Principles](#) repeat and support the main concerns of the [Earth Charter](#), although the Covenant is much less detailed than the Charter, and less specific, thus manifesting, even in draft form, many of the same problems of vagueness and lack of prescriptive specificity of most international covenants, no matter what the topic.

This vagueness is not the result of chance: through negotiations most international agreements are negotiated “down” from their original intent, through blocs and alliances fostered by the most powerful countries and intended to ensure that business - as - usual will prevail in the interest of those countries, and that the regulatory regime under consideration does not cause too many impediments to affluent Western economies (Koskenniemi, 1992). Although it involved NGOs and citizens from countries all over the world, this has not been a problem for the [Earth Charter](#), hence the latter could speak with a strong voice indicting harmful practices and explicitly defending life and the intrinsic value of both natural systems and processes, as well as biodiversity. It is vital to ensure that the major principles of the [Earth Charter](#) are thus preserved in the Covenant, especially those that emphasize the important connection between human health and human rights (Soskolne and Bertollini, 1999; David Fidler, 2001, Westra, 2000), and the interface between human rights and “ecological rights” (Taylor, 1998). The [Earth Charter](#), Principle 2 says:

2 - Care for the Community of Life with Understanding, Compassion and Love, and 2(a), “Accepting that with the right to own, manage, and use natural resources comes the duty to prevent environmental harm and to

protect the rights of people”, the connection between environmental harm and human rights is rendered explicit. In addition, Principle 6(c),”Ensure that decision making addresses the cumulative, long - term, indirect, long distance and global consequences of human activities”, ensures that the connection between environmental harms and human activities and practices is spelled out.

In contrast, the Covenant’s Articles 4, 5, 6, and 7 only state the following:

Article 4 - Interdependent Values - Peace, development, environmental protection and respect for human rights and fundamental freedoms are interdependent.

Article 5 - Intergenerational Equity - The freedom of action of each generation in regard to the environment is qualified by the needs of future generations.

Article 6 - Prevention - Protection of the environment is best achieved by preventing environmental harm, rather than by attempting to remedy or compensate such harm.

Article 7 - Precaution — Lack of scientific certainty is no reason to postpone action to avoid potentially irreversible harm to the environment.

Some of the key concepts are preserved, but the question of long-term, long-distance and cumulative harms, resulting from human activities is not addressed, nor are duties as well as rights emphasized. Human health itself is not even mentioned.

Yet a number of high levels, UN sponsored WHO meetings on Environment and Health with Conferences in Frankfurt (1989) and Helsinki (1994),culminating in a” Declaration of the Third Ministerial Conference on Environment and Health” (signed in London on June 18, 1999), clearly connected environmental harms to human health and thereby to human rights.

It is both wrong and illogical to exclude the important scientific findings of the WHO in regard to human health in general, and in relation to environmental conditions, specifically in any document that is aimed at preventing environmental harm and promoting sustainability (Soskolne and Bertollini, 1999; WHO, 1996; WHO, 1999). The spurious separation between “environment” and “humankind” militates against Articles 4 and 5 of the Draft Covenant, and against the main principles that animate the [Earth Charter](#):

I. Respect Earth and Life in all its Diversity

Recognize that all beings are interdependent and every form of life has value regardless of its worth to human beings.

Hence the respect for human beings cannot be separated from respect for their habitat, one that they have in common with the rest of life. It is clear that if this connection were emphasized and made explicit, grave consequences would follow for present practices and institutions. For instance, when the activities of tobacco companies were fully disclosed and, eventually, the consequences of those practices scientifically documented, many business and institutional activities were severely curtailed as such rights as freedom of expression were pitted against public rights to health and life.

When linkages are openly acknowledged between climate-induced disasters, temperature extremes, and soil erosion leading to desertification and famine, then state supported but unsafe business practices and -- in general -- a status quo that privileges trade over life, will be brought into question. The changes required will be drastic for both institutional practices and the law, as not one industrial enterprise (e.g. tobacco companies) but all of them, will have to admit their responsibility.

This Draft Covenant represents a “bridge” of sorts between the failure to protect so clear in most other environmental international instruments, and the *erga omnes* obligations that best define environmental duties (Ragazzi, 1997). Insofar as the Draft Covenant will add the connections and the emphases I propose, and will not allow signatories to further water down and erode the underlying normative message of the [Earth Charter](#), it may well become one of the first international legal instruments committed to the joint protection of humankind and their habitat.

Significantly the development of the [Earth Charter](#) principles demonstrates the “bottom-up” globalization referred to earlier. From the substantive point of view, even more significant is the connection that many of its principles have with public health, hence with human rights: that emphasis helps to connect the [Earth Charter](#) to some of the strongest and most accepted international law instruments based on *jus cogens* norms, thus giving rise to *erga omnes* rather than contractual (agreed upon) obligations. Hence when the [Earth Charter](#) will become part of an international covenant, the latter will embody both aspects of cosmopolitanism.

Cosmopolitanism is a moral perspective, not a collection of rules agreed upon by some states for mutual advantage; it is intended to promote a standpoint that is impartial, egalitarian, individualist but, most of all, universal. Its fundamental idea is that each person affected by an institutional arrangement should be given equal consideration (Jones, 1999:15). However this definition does not allow the other, vital aspects of the [Earth Charter](#) to emerge clearly: its respect for the preconditions of life; the interconnectedness of all life; its emphasis on respect for communities and peoples, basic to global ethics.

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