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## International Environmental Law at its Semicentennial: The Stockholm Legacy

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**CONFERENCE: THE 1972 STOCKHOLM  
DECLARATION AT 50: REFLECTING ON A  
HALF-CENTURY OF INTERNATIONAL  
ENVIRONMENTAL LAW**

INTERNATIONAL ENVIRONMENTAL LAW AT ITS  
SEMICENTENNIAL: THE STOCKHOLM LEGACY

*Hosted by the Georgia Journal of International and Comparative Law and  
the Dean Rusk International Law Center on October 8, 2021, in Athens,  
Georgia and online*

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The 1972 United Nations Conference on the Human Environment produced the Stockholm Declaration, an environmental manifesto that forcefully declared a human right to environmental health and birthed the field of modern international environmental law.<sup>1</sup> The historic event powerfully “dramatized . . . the unity and fragility of the biosphere,”<sup>2</sup> sparking a remarkable period of international legal innovation and cooperation on environmental protection in the decades to come. This special issue, in celebration of the *Georgia Journal of International and Comparative Law*’s 50th anniversary volume, evaluates the legacy of the Stockholm Declaration and the legal movement it launched.

That half-century ago conference in Stockholm, Sweden marked an early awakening by the community of international diplomats, lawyers, and civil society organizations to the idea that the environment is a matter of global concern. Other matters preoccupied them at this time: one was the Cold War hostility between the United States and the Soviet Union and the resulting bipolar checkmate in global affairs; another, the efforts by many countries to escape the bonds of colonialism. Only a few international treaties concerned environmental matters, and most of them were then very new.<sup>3</sup> Yet, the effects of industrialized society on the environment were intruding into public consciousness. Rachel Carson’s 1962 book “Silent Spring” had shocked many readers into concern for the “internationally devastating effects of certain chemicals on wildlife,”<sup>4</sup> and a series of environmental disasters around the world had also sparked environmental awareness and concern.<sup>5</sup> Some countries, like the United States, had begun to pass domestic legislation aimed at curbing harmful pollution and protecting natural resources.<sup>6</sup>

Against this backdrop, Sweden proposed that the time was ripe for a United Nations conference on the human environment. Despite the formidable geopolitical challenges of the time, Sweden successfully convened 113 nations and at least 250 non-governmental organizations in Stockholm to develop the principles by which international environmental law should

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<sup>1</sup> Stockholm Declaration of the United Nations Conference on the Human Environment, *Report of the United Nations Conference on the Human Environment*, U.N. Doc. A/CONF.48/14 (1972) [hereinafter Stockholm Declaration].

<sup>2</sup> Lynton K. Caldwell, *A World Policy for the Environment*, UNESCO COURIER, Jan. 1973, at 5.

<sup>3</sup> These concerned whaling, fisheries, marine pollution from oil damage, and civilian use of nuclear energy.

<sup>4</sup> Edith Brown Weiss, *The Evolution of International Environmental Law*, 54 JAPANESE Y.B. INT’L L. 26 (2011).

<sup>5</sup> PAMELA CHASEK, STOCKHOLM AND THE BIRTH OF ENVIRONMENTAL DIPLOMACY, INT’L INST. FOR SUSTAINABLE DEVELOPMENT (Sept. 2020), [https://www.iisd.org/system/files/2020-09/still-one-earth-stockholm-diplomacy\\_0.pdf](https://www.iisd.org/system/files/2020-09/still-one-earth-stockholm-diplomacy_0.pdf).

<sup>6</sup> See, e.g., National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 *et. seq.* (reflecting the first major piece of U.S. federal legislation on environmental protection, passed just three years prior to the Stockholm Conference).

develop. Those twenty-six principles, enshrined in the Stockholm Declaration, set the course of international environmental law. In the fifty years since, the international community has negotiated hundreds of agreements covering topics as diverse and important as protection of biological diversity and endangered species, transboundary movements of hazardous waste and chemicals, acid rain, depletion of the ozone layer, and climate change. As Edith Brown Weiss has observed, the two decades after the Stockholm Declaration produced *more than 1,100 international legal instruments* concerned either fully or partially with the environment.<sup>7</sup> The Stockholm Conference also led to the development of a dedicated United Nations body concerned with addressing environmental issues, the United Nations Environment Programme.

The Stockholm Declaration can be rightly celebrated for inspiring this enormously productive period of international cooperation; for putting environmental issues on the international legal agenda for the next fifty years; and for driving the development of environmental law at the domestic level around the world. At the same time, the Declaration's distinctive framing of environmental problems and solutions deeply influenced these abundant subsequent laws, and here its legacy is mixed.

In celebration of its 50th anniversary volume, the *Georgia Journal of International and Comparative Law* convened a conference in concert with the Dean Rusk International Law Center at the University of Georgia School of Law to reflect on the Stockholm Declaration's legacy. The conference, which took place in Athens, Georgia, and online on October 8, 2021, featured an array of experts from academia and practice who critically evaluated the Stockholm Declaration's articulation of first principles, asking how these principles shaped the field over the past half century and how to understand their long tail in the context of 21st century challenges. In particular, speakers were invited to reflect on the themes of Principle 1 of the Stockholm Declaration: environmental protection as a human right, as an intergenerational responsibility, and as entwined with the imperative to condemn and eliminate all forms of discrimination, segregation, and apartheid. While responses to this call were diverse, many contributors focused their reflection and critique on the Stockholm Declaration's distinctly anthropocentric approach.

For example, one of the Stockholm Declaration's striking choices was to place environmental protection within the context of human rights. The Stockholm Conference broadcast this framework in its very title, concerning itself with "the *human* environment."<sup>8</sup> The Stockholm Declaration followed suit, opening with a pronouncement, in the gender-exclusive language of the time that, "[m]an has the fundamental right to freedom, equality and adequate

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<sup>7</sup> Weiss, *supra* note 4, at 6 (emphasis added).

<sup>8</sup> U.N. Conference on the Human Environment, Stockholm (June 5-16, 1972).

conditions of life, in an environment of a quality that permits a life of dignity and well-being.” In this focus on human rights, the Stockholm Declaration is, as panelist Tyler Giannini put it, “timeless, prophetic, and dated.”<sup>9</sup> Prophetic, in that it was fifty years ahead of its time: the very day the Georgia Law conference unfolded, the United Nations Human Rights Council recognized for the very first time that a healthy and sustainable environment is a human right.<sup>10</sup> Timeless, in that the very anthropocentric concerns that brought us the Stockholm Declaration continue to animate international legal discourse today. Dated, in that the Declaration’s conception of humanity was gravely limited and its approach could not address the root of the problem at hand: rapacious overconsumption, principally by the global north.

The Stockholm Declaration’s anthropocentric approach obscures—as panelist Nnimmo Bassey evocatively observed at the Georgia Law conference—the place of humanity within nature and the intrinsic importance of other beings: “Our behavior is linked to loss of memory. We have forgotten that we are beings, and so we don’t respect the other beings on this planet.”<sup>11</sup>

In Katie O’Bryan’s contribution to this conference volume, entitled “Legal Rights for Rivers,” she explores attempts by international lawyers to reclaim the importance of those other beings and of nature itself.<sup>12</sup> O’Bryan observes that the international legal idea of rights for nature is at least as old as the Stockholm Declaration itself, though this idea is absent from the Declaration’s framing. Indeed, O’Bryan points out, the Stockholm Declaration explicitly places humankind at the top of the hierarchy: “Of all the things in the world, people are the most precious.”<sup>13</sup> A legal-rights-for-nature approach—though riddled with legal difficulties and unsolved questions, as her contribution explores—offers something fundamentally different, turning the Declaration’s approach “on its head, or at least elevat[ing] nature to an equal position in the rights framework.”<sup>14</sup>

By severing the intrinsic connection between humanity and nature and placing people on top of the hierarchy, the Stockholm Declaration “produced an international environmental framework unable to ‘see’ environmental integrity as an independent imperative for international law,”

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<sup>9</sup> Tyler Giannini, Address at The Georgia Journal of International and Comparative Law Conference: The 1972 Stockholm Declaration at 50: Reflecting on a Half-Century of International Environmental Law (Oct. 8, 2021).

<sup>10</sup> Human Rights Council Res. 48/13 (Oct. 8, 2021), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/289/50/PDF/G2128950.pdf?OpenElement>.

<sup>11</sup> Nnimmo Bassey, Address at The Georgia Journal of International and Comparative Law Conference: The 1972 Stockholm Declaration at 50: Reflecting on a Half-Century of International Environmental Law (Oct. 8, 2021).

<sup>12</sup> Katie O’Bryan, *Legal Rights for Rivers*, 50 GA. J. INT’L & COMP. L. 770 (2022).

<sup>13</sup> Stockholm Declaration, *supra* note 1, ¶ 5.

<sup>14</sup> O’Bryan, *supra* note 12, at 770.

as Rebecca Bratspies' powerful account in this volume declares.<sup>15</sup> In the process, the Declaration's framing radically curtailed international environmental law's capacity to respond to the grave and systemic problems, like climate change, that we confront a half century later. Bratspies traces this problem to twin shortcomings of the Stockholm Declaration's anthropocentric form: first, it continues the extractive, exploitative, colonial mindset, affirming sovereign control over resources and focusing on the earth as a producer of resources rather than a relational system; and second, it ignores the role that transnational corporations play in sustaining and "perpetuating a culture of commodification and overconsumption," so that it systemically omits even the merest reference to these producers of toxic pollution or the responsibilities of commercial actors for the environment.<sup>16</sup> The result, Bratspies observes, is a tradition of international environmental lawmaking long on law and short on transformative change.

Beyond its functional shortcomings, the Stockholm Declaration's anthropocentric approach has a deeper intrinsic flaw: the conception of humanity at its heart is harmfully circumscribed. The Declaration's language tellingly omits half of the human population in repeatedly referring to the rights and duties of "man." The Declaration does lip service to racial equity while assigning no responsibility to the global north for the vast, racialized global inequities of colonial domination and the global north's concomitant head start in industrial development. This omission is all the more glaring since these very inequitable facts gave rise to the problems the document purports to address. Indeed, in the lead-up to the Stockholm Conference, developing countries expressed the concern that an international effort to protect the environment might in fact be cover for an effort by the global north to deny the global south the right to pursue their own industrial development. This produced the Founex report, which recognized that environmental protection and economic development should be balanced.<sup>17</sup> This "sustainable development" framework found its way into the Stockholm Declaration, the subsequent 1992 Rio Declaration, and most of the rest of international environmental law, becoming one of its most foundational principles. While the sustainable development framework purports to balance the interests of the global north and south, contributors to the Georgia Law conference suggested that it in fact entrenched for a half century the harmful racialized dynamics of the 1972 context. In panelist Sarah Riley Case's powerful framing: "The origin stories of international environmental law perpetuate racial discourses that cast global south states as 'disinterested' in

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<sup>15</sup> Rebecca Bratspies, "In Countless Ways and On an Unprecedented Scale": *Reflections on the Stockholm Declaration at 50*, 50 GA. J. INT'L & COMP. L. 755 (2022).

<sup>16</sup> *Id.* at 765.

<sup>17</sup> See U.N. Conference on the Human Environment, *Founex Report on Development and Environment* (June 4-12, 1971); see also Miguel Ozorio de Almeida, ENVIRONMENT AND DEVELOPMENT: THE FOUNEX REPORT ON DEVELOPMENT AND ENVIRONMENT 25 (1972).

environmental protection and their proposals as ‘unreasonable.’<sup>18</sup> The sustainable development framework ignores and sidelines the fact that, in Bratspies’ phrase, the global north is largely comprised of “ecological debtor nations.”<sup>19</sup>

Taken together, the contributions to the Georgia Law conference and this volume issue a clarion call to the international lawyers, diplomats, and members of civil society of today: it is time for transformative change. “How are international lawyers contributing to the problems we are trying to solve?” panelist Usha Natarajan asked, provocatively, at the Georgia Law conference. She concluded that “five decades of environmental degradation evidence that western notions of stewardship embedded in the declaration are scientifically inaccurate and harmful.”<sup>20</sup> As Bratspies concludes in her contribution, “[i]f there is one clear lesson to take from Stockholm for the next 50 years, it is that we cannot solve environmental problems using the same logic that created the problems in the first place.”<sup>21</sup>

Notwithstanding the vast body of international and domestic environmental laws that the Stockholm Declaration birthed, the Declaration has a checkered legacy in light of grave environmental concerns that persist and proliferate a half century later. Tracing these to the Stockholm approach offers the chance to interrogate received wisdom and imagine something new. It offers a chance at redemption: to reclaim and renew Stockholm’s exhortation to deliver improvements for future generations, and to do better than our past.

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<sup>18</sup> Sarah Riley Case, Address at The Georgia Journal of International and Comparative Law Conference: The 1972 Stockholm Declaration at 50: Reflecting on a Half-Century of International Environmental Law (Oct. 8, 2021).

<sup>19</sup> Bratspies, *supra* note 15, at 761.

<sup>20</sup> Usha Natarajan, Address at The Georgia Journal of International and Comparative Law Conference: The 1972 Stockholm Declaration at 50: Reflecting on a Half-Century of International Environmental Law (Oct. 8, 2021).

<sup>21</sup> Bratspies, *supra* note 15, at 768.