

## International Environmental Law Principles and their Application in Environment Protection Act, 2076

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**Article History :** Submitted : 22<sup>th</sup> Nov. 2024; Reviewed : 18<sup>th</sup> Jan. 2025; Revised : 12<sup>th</sup> Feb. 2025

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**DOI :** <https://doi.org/10.3126/bpjms.v3i01.76248>

### Abstract

*The environment is the foundation of human life, making its protection and conservation essential for sustaining livelihoods. To address this critical need, environmental law has emerged as a specialized legal framework. Alongside these laws, several guiding principles have been established to promote environmental protection. This paper adopts a doctrinal research method within a qualitative approach to analyze the application of key international environmental law principles within Nepal's legal framework. The article examines foundational principles such as the Polluter Pays Principle, the Precautionary Principle, and Sustainable Development, exploring their incorporation into Nepal's Environment Protection Act, 2076. It evaluates how these principles influence the legal structure for environmental conservation, resource management, and ecological harm mitigation while fostering sustainable practices. The study also highlights the Act's alignment with international standards, identifying both its strengths and the gaps in implementation and enforcement. Although Nepal's environmental laws directly or indirectly incorporate significant international principles, their practical application remains confined to the text of the legislation. The provisions supporting these principles lack sufficient enforcement to realize their objectives effectively. Concluding with actionable recommendations, the paper emphasizes the urgent need to establish robust mechanisms to ensure accountability, strengthen regulatory oversight, and enhance environmental resilience in Nepal.*

**Keywords:** Environment, Environment Law, Principles, Environment Protection Act etc.

### Introduction

The environment is a vital foundation for all forms of life, supporting ecosystems and ensuring the survival of humanity. Over the years, the growing impact of industrialization, urbanization, deforestation, and climate change has significantly threatened natural ecosystems, making environmental protection a global concern. To address these challenges, international environmental law has evolved as a distinct branch of public international law, focusing on principles and norms aimed at conserving the environment and promoting sustainable development. These principles, such as the Polluter Pays Principle, the Precautionary Principle, and Sustainable Development, have guided the formulation of policies and legislation worldwide.

In the context of Nepal, the country is home to a rich biodiversity, unique ecosystems, and vital natural resources, making environmental conservation not only a necessity but also a constitutional mandate. Article 30 of the Constitution of Nepal explicitly recognizes the right to a clean and healthy environment as a fundamental right. The enactment of the Environment Protection Act, 2076 reflects Nepal's commitment to fulfilling this constitutional obligation and aligning with international environmental standards. The Act seeks to provide a comprehensive legal framework for the conservation, sustainable use, and management of natural resources while integrating internationally recognized principles of environmental law.

Despite the legislative intent, the practical implementation of these principles in Nepal remains a challenge. Weak enforcement mechanisms, resource constraints, and limited public awareness often hinder the effective realization of the goals envisioned by the Act. By examining the application of key international environmental principles within the Environment Protection Act, 2076, this study seeks to analyze the Act's contribution to environmental governance in Nepal. It also aims to identify gaps and propose actionable solutions to strengthen environmental resilience and regulatory oversight in the country.

Therefore, the study aims to provide a comprehensive understanding of the fundamental concepts and principles that underpin environmental law, including key legal principles, to critically analyze the significance, implications, and practical application of these principles in real-world scenarios, highlighting their effectiveness and challenges within the context of international environmental law, and to explore the international dimensions of environmental law by examining various international treaties, conventions, and agreements that shape the framework of global environmental protection and conservation.

## **Review of Literature**

Etymologically the word environment has its origin in the French word 'Environ' which means 'surrounded' or 'encircled'. Environment refers to the sum total of the conditions which surrounds man at a given point in space and time. (Khan, 2000, p.7) As per section 2(t) of the Environment Protection Act, 2019 "Environment" means the interaction and interrelationship among the components of natural, cultural and social systems, economic and human activities and their components. Goudie states "Environment is the representative of physical components of the earth, wherein man is the important factor influencing his environment". (Padma & Rao, 2011, p.9)

The dictionary meaning of the word 'Environment' is a surrounding; external conditions influencing development or growth of people, animals or plants; living

or working conditions, etc. (Singh, 1955, p.15) According to Oxford dictionary Environment is the surroundings or conditions in which a person, animal or plants lives or operates. According to Business dictionary Environment is surroundings of a living organism, including natural forces and other living things, which provide condition for development and growth as well as of danger and damage. Thus, Environment can be defined as a sum total of all the living and non-living elements and their effects that influence human life, survival and development.

Environment law is the collection of laws, regulations, agreements that governs how human interact with environment. It means the laws that regulate the impact of human activities on the environment. It is also known as Natural resources Law. It covers a broad range of activities that affect air, water, land, flora (plants) or fauna (animals).

In another way, Environmental Law is a body of law, which is a system of complex and interlocking statutes, common law, treaties, conventions, regulations and policies that seek to protect the natural environment, which may be affected, impacted or endangered by human activities. (Myneni, 2008, p.196). Environment law can be defined as a body of legal rules and principles directed specifically to activities that potentially affect the quality of the environment, whether natural or manmade. (Sijapati, 2018, p.6) Black's Law Dictionary defines Environmental Law as the field of law dealing with maintenance and protection of the environment, including preventive measures such as the requirements of environmental impact assessments as well as measures to assign liability and provide clean-up for incidents that have the environment. (Black Law Dictionary)

Environmental laws are the legal frameworks that protect the natural environment. They vary from country to country, but typically help govern and regulate natural resources – specifically, how human beings interact with and use them. From forests to fisheries, natural resources ensure humanity's survival and contribute to people's overall quality of life. Environmental laws, in their various forms and iterations, protect these natural resources in a number of areas, including: air quality, water quality, soil quality, Biodiversity, Waste management and contaminant clean-up, forests, oceans, wildlife, sustainable energy, Environment Impact Assessments etc.

Therefore, environmental law or natural resources law is a collective term describing the network of Treaties, statutes, regulations and common and customary laws addressing the effects of human activity on the natural environment.

## **Methodology**

In this paper the author has used qualitative, doctrinal, and descriptive research

methodology, Data and information have been collected from secondary sources/documents. The Constitution, existing laws, published research works, authorized books, journal articles, and various websites are retrieved from both print and online sources. Computer Assisted Legal Research (CALR) has been adopted in the research.

### **Significance of the study and Environment Law**

Environmental law is a growing field with a broad scope of work that encompasses issues related to air and water quality, pollution control, and the protection of natural resources. It facilitates environmental management by providing rules and regulations for environment conservation and preservation. Environment laws establish regulatory structures for environmental management, including regulatory agencies, specialist courts and tribunals and provide civil, administrative and criminal penalties for breaches of such regulatory laws. These laws enable regulators to manage environmental impacts using plans, policies, licenses, standards and incentives

Environment law involves conservation of natural resources for their better use by the present-day society as well as by future generations and it also governs the interrelationship between natural resources and human beings. (Myneni, 2008, p.196) These laws' prime concern is to ensure the use of natural resources ecologically sustainable and equitable by setting policies and standards for how activities will be controlled and how environmental decisions and approvals will be made. Therefore, Environment Laws protect Human health and environment by policy measures.

### **International Environmental Law: A Practice**

International environmental law refers to the agreements and treaties among different nations or between citizens and corporations of different nations concerning to the wise and sustainable utilization of natural resources which ultimately benefits human and environment. It encompasses, that is, includes, both international treaties (and conventions) incorporated into national law, and international customary law (general practice accepted as law). These constitute the law that nation states are obliged to follow or otherwise suffer sanctions from the international legal community. (Brown & Rice, 2007, p.96) International Environment Law is important as it focuses attention on the existence of global problems and the need for international solutions to those problems, and it has pioneered and developed important legal and policy principles which are so influential that they have been incorporated into the national environmental law and policy of individual nation states and regional communities of states.

There are four criteria in International Environment Law. (Dr. Padma, 2005, p.3)

First, the activity in question must be human activity. Second, it must be within the territory or control of a state. Third, it must give rise to or be capable of giving rise to harm; and last that harm must be to persons or things within the territory or control of another state. The International Environment Law covers International customary law like usual exercise of law and International treaties like conventions.

S.N.	Environmental Laws	Year
1.	UN Convention on the Human environment	1972
2.	Convention on International Trade in Endangered Species of Wild Fauna and Flora	1973
3.	Convention on Migratory Species	1979
4.	Montreal Protocol	1985
5.	UN Framework Convention on Climate Change	1992
6.	Convention on Biological Diversity	1992
7.	Kyoto Protocol	1997
8.	Cartagena Protocol on Biosafety	2000
9.	Paris Agreement	2015

The Global and regional environmental issues are increasingly the subject of international law. Multilateral environmental agreements, sometimes, create an International Organization, Institution or Body responsible for implementing the agreement. Major examples are the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the International Union for Conservation of Nature (IUCN).

According to M. Longlin, environmental has been derived from two sources, namely, common law developed by courts through judicial precedents and the statutory law with regulations or bye-laws made thereunder. (Myneni, 2008, p.196) The sources of International Environmental Law cannot be mentioned in a definite manner. However, after analyzing its way of making laws, development, etc.; few sources can be carved out. They are: (i) Treaties (ii) Agreements (iii) Customs.

### **Principles of International Environmental Law**

The design and application of modern environmental law have been shaped by a set of principles and concepts.

#### **Polluter Pays Principle**

The Polluter Pays Principle is “the commonly accepted practice that those who produce pollution should bear the costs of managing it to prevent damage to human health or the environment” ‘Polluter Pays Principle’ is also known as ‘Extended Producer Responsibility’ (EPR). The Supreme Court of India in a noted case declared

the ‘Polluter Pays’ principle means that absolute liability for harm to the environment extends not only to compensate the victims of pollution but also at the cost of restoring the environmental degradation. Remediation of the damaged environment is a part of the process of ‘Sustainable Development’ and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology. (Vellore Citizens Welfare Forum v. Union of India, 1966)

The basic meaning of this principle is that those who commence the act of pollution shall bear the cost of its management and prevention so that it does not harm the environment and human beings. For instance, a factory that produces a potentially poisonous substance as a byproduct of its activities is usually held responsible for its safe disposal.

International Recognition	EPA provision
The 1992 Rio Declaration, Organization for Economic Co-operation and Development (OECD) has recognized the polluter pays principle.	<ul style="list-style-type: none"><li>• The preamble of the act mention about the polluter pay principle by ensuring the act is to provide the victim with compensation by the polluter for any damage resulting from environmental pollution or degradation.</li><li>• Section 22 of the act provision of fine and compensation for obstructing in the inspection of disposal of hazardous substance or any pollution.</li><li>• Chapter 6 of the act has provisions regarding fine and compensation for executing any project without approval from the concerned bodies or doing anything contrary to the act which restricts pollution causing activities and projects.</li></ul>

Despite EPA endorsing PPP, there is a lack of specific regulations that effectively operationalize this principle. For instance, while the Act allows for pollution fees and compensation mechanisms, these provisions are often not enforced or lack clarity on implementation procedures. (Adhikari, 2023) The provincial governments have not established significant rules to enforce the PPP effectively, particularly in areas such as motor vehicle taxation and industrial emissions.

Though Nepal’s judiciary have stressed the significance of polluter pay principle in many judgements there are many industries contribution to pollution but not adequately liable for paying. Beside it, the environmental impact assessment process has been deemed largely ineffective, with the “polluters pay” principle often misused. This allows infrastructure developers to get away with environmental destruction by paying fines after the fact, that too without guilt or remorse. (Joshi, 2024)



Apart from this, public awareness regarding the PPP and environmental rights is relatively low in Nepal. Many communities are unaware of their rights to seek restitution from polluters or how to navigate the legal framework to claim damages. While there are provisions for pollution fines, these fees are often nominal and do not reflect the true cost of environmental damage caused by polluters. As a result, they fail to serve as a deterrent against pollution or incentivize cleaner practices among industries and individuals.

### **Precautionary Principle**

Precautionary Principle underlies sustainable development which requires that the developmental activity must be stopped and prevented if it causes serious and irreversible environmental damage. For example, whether a certain level of air pollution will result in an increase in mortality from respiratory disease, the precautionary principle requires it is better to control that activity.

This rule, although still evolving, is reflected in principle fifteen of the Rio Declaration, which states that where there are warnings 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. (Soto, 2016, p. 201) According to Khan (2000), the principle constitutes of the following:

Environmental measures by the State Government and the statute should attack the causes of environmental degradation. Where there are threats of severe and, irreversible damages, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. The ‘Onus of Proof’ is on the actor or the developed industrialists to show that his/her action does not affect environment. (p. 208)

<b>International Recognition</b>	<b>EPA provision</b>
<ul style="list-style-type: none"><li>• The first international recognition of the precautionary principle was in the World Charter for Nature adopted by the UN General Assembly in 1982. There has, however, been little movement on the development of the principle as a policy instrument compared with sustainable development. (Bell &amp; McGillivray, 2001, p.50)</li></ul>	<ul style="list-style-type: none"><li>• Section 10 of the act requires the proponent to prepare an Environmental Management plan prior to the implementation of a proposal, which includes various measures to mitigate environmental adverse impact after the completion and in course of implementation of the project.</li></ul>

- The Precautionary Principle has been given utmost importance in the United Nation's Conference on Environment and Development held at Rio in 1992. Principle 15 of the 'Rio Declaration' states: "In order to protect the environment, the precautionary approach shall be widely applied by the States according to their capabilities, where there are threats as serious as of irreversible environmental degradation."
  - Other international tool like Convention on Biological Diversity, 1992 Vienna Convention for the Protection of the Ozone Layer too include this principle.
  - Section 24 of the act mentions the formulation of an adaptation plan by the ministry, provincial ministry and local level to avoid adverse impacts and risks of climate change at their respective levels.
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The integration of the Precautionary Principle into national and local development planning is often inadequate. Many development projects proceed without thorough consideration of potential environmental impacts, as precautionary measures are not systematically applied during project planning stages. This oversight can lead to significant environmental degradation. Political dynamics and economic interests frequently overshadow environmental considerations in Nepal. Development projects are often prioritized over environmental protection, leading to a reluctance to impose precautionary measures that could delay or complicate project approvals.

### **Sustainable Development Principle**

The principle of sustainable development means a kind of development where the essential needs of especially the poor are met in the present without compromising the future generation's ability to meet their needs. The primary focus of sustainable development in this regard is environmental protection. Sustainable development, as reflected in international agreements, encompasses at least three elements: (i) intergenerational equity (ii) sustainable use of natural resources (iii) integration of environment and development.

The principle is clearly anthropocentric i.e. viewing the environment from human centered, human needs perspective. (Wolf et.al, 2002, p.464) It also exhibits elements of equality and fairness in its concern for the rights of present-day societies, both rich and poor, and for the right of future generations to be able to develop the earth's available resources.



International Recognition	EPA provision
<ul style="list-style-type: none"> <li>• The 1987 Brundtland Report first discussed the principle of sustainable development. 1995 the World Conference on Sustainable Tourism, Malé Declaration on Sustainable Tourism, 1992 Earth Summit etc. are the few international instrument recognizing this principle.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 31 of the act provisions of establishment of environmental protection fund for the protection of environment, prevention and control of pollution, management of climate change and protection of the national heritages.</li> <li>• There shall be the formation of an 8 membered environmental protection and climate change management national council chaired by the Prime Minister, for the carrying out of acts relating to environmental protection and climate change at the national level in an effective manner as per section 32 of the act, whose role is to give guidance to the Ministry for utilization, management, development and protection of natural, cultural and physical resources and heritages.</li> </ul>

The current government's focus on rapid economic development, encapsulated in slogans like "Prosperous Nepal, Happy Nepali," whose main focus is economic development often conflicts with sustainable development goals. (Prasai & Shrestha, 2021) Large-scale infrastructure projects, such as the proposed international airport in Nijgadh, which involves significant deforestation, illustrate the tension between developmental aspirations and environmental conservation challenging the sustainable development. Some of the benchmark cases in which the Supreme Court of Nepal addressed Environment relates issues are:

### **Surya Prasad Sharma Dhungel vs Godavari Marble Quarry Pvt Ltd. and others, NKP 2052**

Popularly known as Godawari Marble Case, The Supreme Court of Nepal shut the Godawari Marble Pvt. Ltd, an industry manufacturing marbles on the ground of Right to environment citing the industry caused serious harm to the animals, plants, flora and fauna and the environment. However, the Court explicitly did not mention sustainable development in its decision, but the interpretation does express that sustainable development is sine qua non for nurturing the principles such as intergenerational equity and precautionary principle.

### **Narayan Prasad Devkota vs. Rt. Honorable Prime Minister and Prime Minister Office and Others, NKP 2067**

Popularly known as *Chure Hill* case, the petitioner filed the writ seeking an order

prohibiting private enterprises to mining of boulders, stone from the river in *Chure Hill* (Southernmost foothills of the Himalayan Range in Nepal) and transport to India in light of protection of Natural Resources. the Supreme Court decided that before allowing any companies to function, government's first and most important task is to get consent from sensitive and vulnerable institutions such as hospitals, schools etc." However, the Court failed to address principles of intergenerational and intra-generational equity in this case. Sand or stone mining affects the present and future generation equally.

### **Yogi Narahari Nath vs. Prime Minister Girija Prasad Koirala and Others, NKP 2053**

In this landmark case, the Court highlighted the principle of sustainable development by emphasizing the government's duty to balance developmental activities with the protection of the environment, cultural heritage, and biodiversity. It recognized that environmental conservation is an integral part of life, and any harm to natural resources directly impacts human beings and other species. Citing the pivotal role of forests in environmental preservation and referring to Article 26(4) of the Constitution of the Kingdom of Nepal (1990), which enshrines environmental protection as a state policy, the Court stressed that developmental projects must align with constitutional principles and legal norms. Though not explicitly addressed, the judgment alluded to the principle of intergenerational equity, as environmental conservation and cultural heritage protection ultimately serve future generations.

### **Environment Impact Assessment Principle**

This principle aims to use rational planning before carrying out changes to the environment and to consider the costs of ecological effects. On a simple level, EIA is merely an information-gathering exercise carried out by the developer and other bodies which enables a local planning authority to understand the environmental effects of a development before deciding whether or not to grant planning permissions for the proposal. (Bell, & McGillivray, 2001, p.347) The principle focuses to use rational planning before carrying out changes to the environment and to consider costs of ecological effects. (Brown & Rice, 2007, p.96) The key point is that strictly the 'assessment' is undertaken by the local planning authority on the basis of environmental information supplied to it. This information consists in part of an environmental statement prepared by the developer which details at least the main environmental impacts of the project and any mitigating measures which are proposed to reduce the significance of those impacts. (Brown & Rice, 2007, p.347)

The EIA assesses the direct and indirect significant impact of a project based

on a wide range of environmental factors, including population and human health, biodiversity, land, soil, water, air, climate, landscape, material assets, cultural heritage.

International Recognition	EPA provision
<ul style="list-style-type: none"><li>• Principle 17 of Rio Declaration on Environment and Development (1992) explicitly states "Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority."</li><li>• Article 14 of Convention on Biological Diversity (CBD, 1992) obligates parties to introduce EIA procedures for projects that are likely to have significant adverse effects on biodiversity.</li><li>• While not legally binding, Principle 19 of Stockholm Declaration (1972) advocates for prior and timely notification, consultation, and assessment of potentially significant transboundary environmental impacts.</li></ul>	<ul style="list-style-type: none"><li>• Section 3 of the act requires the environment impact assessment study as a process to be fulfilled while preparing environmental study report of development project with national priority, a project of national pride etc. by the proponent.</li><li>• Section 5 of the act provisions a mandatory approval of such EIA by the concerned bodies.</li><li>• Section 8 provision for no proposals to be implemented without EIA.</li><li>• Section 11 of the act envisages supplementary environment impact assessment to be made if some revision in the initial in EIA is required to ascertain whether the operation of such revision causes adverse impacts on the environment or not, and whether such impacts can be done away with or mitigated by any means or not.</li></ul>

The Environmental Impact Assessment (EIA) process, mandated by the Environment Protection Act of 2019, is often criticized for being ineffective. Reports indicate that many infrastructure projects proceed with inadequate assessments, allowing developers to bypass comprehensive environmental evaluations.

One of the most pressing concerns is the quality of EIA reports. Many reports are prepared by individuals who lack the necessary expertise, leading to unreliable assessments. As noted, there are no strict criteria or standards for evaluating these reports, which allows for subjective judgments and potential biases during the review process. (Devkota, 2011) Consequently, out of over 130 EIA documents reviewed, very few have met basic quality criteria effectively. (Bhushal, 2022) The capacity of institutions responsible for conducting and reviewing EIAs is limited. There is a significant shortage of trained professionals who can carry out comprehensive assessments and monitor compliance effectively which also lack a structured auditing

process to examine completed projects.

Political lobbying often interferes with the EIA process, where developers may view EIAs as bureaucratic hurdles rather than essential tools for environmental protection. This perception leads to resistance against necessary revisions or reworkings of flawed assessments, as stakeholders may fear delays in project approvals. The EPA mandates that an Environmental Inspector be mobilized in every district; however, this provision has not been realized.

### **Common but Differentiated Responsibility Principle**

The meaning of common but differentiated responsibility is that the common aim of all states should be protecting the environment, but having said that, certain states owing to their different ecological systems, physical appearances, and geographical features might have to take more responsibility than other states. The basic idea of this principle is that all states should follow and obey international laws on the basis of equity and in accordance with their common but differentiated responsibilities and respective capacities. This principle simply means for countries to have shared but different responsibilities for the environment.

<b>International Recognition</b>	<b>EPA provision</b>
<ul style="list-style-type: none"><li>• Principle 7 of Rio Declaration on Environment and Development (1992) explicitly states: "In view of the different contributions to global environmental degradation, states have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command."</li><li>• Article 3(1) of United Nations Framework Convention on Climate Change (UNFCCC, 1992) incorporates CBDR by stating: "Parties should protect the climate system for the benefit of present and future generations...on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities."</li></ul>	<ul style="list-style-type: none"><li>• The common responsibility of the state as per mentioned in the preamble of the act is environmental protection in order to protect the fundamental right of each citizen to live in a clean and healthy environment, provide the victim with compensation by the polluter for any damage resulting from environmental pollution or degradation, maintain a proper balance between environment and development, mitigate adverse environmental impacts on environment and biodiversity and face the challenges posed by climate change.</li></ul>

## Principle of Parens patriae

*Parens patriae* has its origin from Latin, which means “parent of the nation”. It rests on the notion that the state should act to protect common resources because it is the sovereign owner of resources. (Musiker et.al, 1995, p.101) In the judgment of the petition filed concerning the land deed relating issue of Megamalai forest Land, The Madurai Bench of state High court, Tamilnadu Justice S. Srimathy invoking the parens patriae jurisdiction with the concern for environmental protection, entitled legal personhood to mother Nature. (Dr. Yamuna, 2022)

In 2014, New Zealand through Te Urewara Act in section 11 declared Urewara National Park a legal entity. The act states courts are duty bound to protect the environmental ecology under the New Environment Justice Jurisprudence and also under principles of parens patriae.

International Recognition	EPA provision
<ul style="list-style-type: none"> <li>• Principle 2 of Rio Declaration on Environment and Development (1992) States have the sovereign right to exploit their resources but are responsible for ensuring that activities within their jurisdiction do not harm the environment of other states.</li> </ul>	<ul style="list-style-type: none"> <li>• Section 14 of the act provides power to the government of Nepal or provincial government to make environment study on its own, to map out any area or place for the execution of any development, construction works or projects in such area.</li> <li>• Section 18 of the very act provide the government of Nepal or provincial government power to establish laboratories, as required, to carry out test or examination relative to environment protection and pollution control.</li> </ul>

## Inter-generational equity Principle

The principle of intergenerational equity states that every generation holds the Earth in common with members of the present generation and with other generations, past and future. The principle articulates a concept of fairness among generations in the use and conservation of the environment and its natural resources.

International Recognition	EPA provision
<ul style="list-style-type: none"> <li>• It has its roots in the Stockholm Declaration and forms core tenets of the sustainable development frameworks.</li> <li>• The UNFCCC embeds inter-generational equity within the international climate change regime as a founding principle. Article 3 frames the concept in terms of the need to “<i>protect the climate system for the benefit of present and future generations of humankind</i>”.</li> </ul>	<ul style="list-style-type: none"> <li>• In accordance with section 30 of the act, the government specifies any specific area as an open or green area with a view to protecting the environment of such an area in future. In addition, the government prepares a list of sensitive areas or polluted areas where there is excessive pollution and prevents the movement of the public there.</li> </ul>

- Principle 3 of United Nations Conference on Environment and Development, Rio Declaration 1992 reads “The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations”.
  - Paragraph 6 of the United Nations Climate Change Conference, Copenhagen Declaration 2009 refers to “equitable social development and social justice”.
  - Section 25 of the act provisions about the mitigation of emission of green-house gas and launching of necessary programs for such mitigation.
  - Section 26 compliments this provision which provides the government power to issue orders to manage adverse impact and risks of climate change.
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## Discussion

Environment law, often termed natural resources law, constitutes an intricate network of regulations, agreements, and conventions governing human-environment interactions. Its breadth encompasses diverse activities affecting air, water, land, flora, and fauna. This body of law seeks to safeguard the natural environment, addressing its potential endangerment due to human actions. With comprehensive definitions from diverse sources, the paper underscores the role of environment law in guiding human conduct towards environmental conservation.

Environment law serves multiple pivotal functions. It establishes regulatory structures, agencies, and courts for environmental management, accompanied by penalties for breaches. Through policies, standards, and incentives, it empowers regulators to mitigate environmental impacts. Importantly, it preserves natural resources for both present and future generations, guiding the delicate balance between human needs and ecological sustainability.

International environmental law, a collection of agreements and treaties among nations, facilitates sustainable resource utilization for mutual benefit. This paper underscores its significance in addressing global issues and shaping domestic policies. While concise, the description provides a foundational understanding of how international laws governing environmental protection are established and recognized.

The principles that underpin international environmental law hold immense significance. The "Polluter Pays Principle" emphasizes accountability, stipulating that those causing pollution bear its costs. The "Precautionary Principle" advocates proactive prevention of irreversible harm, even in the absence of complete scientific certainty. Sustainable development mandates meeting present needs while safeguarding future generations' interests. These principles serve as ethical and practical cornerstones guiding international environmental policy.



The environmental protection act, 2076 have incorporated most of the necessary principles of the environment law for ensuring a better environment for the Nepalese peoples to live. The provisions like environment impact assessment before carrying out any project ensures a proper planning and mitigate the possible damages to the environment. Mitigation of emission of the greenhouse gas and risk of climate change has been assured by the act which ensures a healthy living environment. Establishment of the environmental protection fund provides necessary monetary resources for the environment protection.

In the context of our interconnected world, international environmental law assumes a central role, commanding our attention and action. The treaties, conventions, and cross-border agreements reflect a collective dedication to addressing urgent ecological issues. Through collaborative efforts rooted in international environmental law, we demonstrate our shared responsibility for shaping a sustainable future. Delving into the diverse aspects of environmental law reveals a fundamental truth: the well-being and prosperity of our planet are intricately interwoven with our choices and deeds. Each decision we take, every stride we make sends ripples through the intricate fabric of life.

Thus, comprehending and upholding the tenets of environmental law transcends a mere legal obligation; it becomes a moral imperative, a resolute commitment to safeguarding the diversity, resilience, and beauty of our global abode. The Environment protection act, 2076 have tried to comprehend and uphold all the tenets of environmental law.

### **Finding and Conclusion**

In conclusion, the exploration of environmental law and its underlying principles underscores the critical role it plays in shaping our relationship with the natural world. From defining the encompassing concept of the "environment" to delving into the intricate realm of international environmental law, this comprehensive overview illuminates the dynamic interplay between human actions and ecological well-being. Environmental law, through its multifaceted functions and ethical principles like the "Polluter Pays," "Precautionary," and sustainable development, crystallizes the urgent imperative to harmonize progress with planetary preservation. As a global framework, international environmental law encapsulates collaborative efforts across borders, mirroring a shared commitment to address pressing ecological challenges. The evolving nature of this field beckons for real-world context and ongoing adaptability, echoing the fundamental truth that our collective actions today shape the vitality and sustainability of the world we inhabit.

The environment protection act, 2076 is an adequate legal instrument for the

conservation and protection of the environment. The problem is with its effective implementation and enforcement. The provisions of the act seem to be merely limited to the letters of the act. The statutory body formed by the act need to step up and discharge there duty more actively backed by accountability in their every action.

A strong inspection and surveillance mechanism for the protection of the environment and pollution control need to be deployed. The act also needs to include more specific provision regarding the polluter based on the polluter pay principle and a special body for checking and monitoring such act should be formulated under the statute.

Hence, the Environment Protection Act, 2076 has been constituted incorporating the environment law principles which lack an efficient enforcement, which need to addressed by all the concerned bodies for proper implementation.

## References

- Bell, S., & McGillivray, D. (2001). *Environmental law* (5th ed.). Universal Law Publishers.
- Brown, G. D., & Rice, S. (n.d.). *Professional English in use law*.
- Dr. Padma. (2005). *International environmental law* (2nd ed.). Asia Law House.
- Khan, I. A. (2000). *Textbook of environmental laws*. Central Law Agency.
- Lazarus, R. J. (n.d.). Changing conceptions of property and sovereignty in natural resources: Questioning the public trust doctrine. *Iowa Law Review*, 71(631), 637–641.
- Bhushal, Ramesh, ‘A waste of time and money: Why are environmental assessments so ineffective in Nepal?’, *Dialogue Earth*, 2022.
- Musiker, D. G., France, T., & Hallenbeck, L. A. (1995). The public trust and parens patriae doctrines: Protecting wildlife in uncertain political times. *Public Land and Resources Law Review*, 16, 101.
- Myneni, S. R. (2008). *Environmental law* (1st ed.). Asia Law House.
- Padma, T., & Rao, K. P. C. (2011). *The principles of environmental studies* (1st ed.). Alt Publications.
- Savindra Singh. (1955). *Environmental geography*.
- Sijapati, B. S. (2018). *Comparative environmental law*. Pairavi Publication.
- Soto, M. V. (n.d.). General principles of international environmental law. *ILSA Journal of International & Comparative Law*, 3(193), 201.
- Supreme Court of India. (1966). *Vellore Citizens Welfare Forum v. Union of India*, AIR 1966 SC 2722–23.
- Te Urewara Act. (2014). New Zealand.

- Wolf, S., White, A., & Staney, N. (2002). *Principles of environmental law* (3rd ed.). Cavendish Publishing Limited.
- Yamuna, S. (2022, July 28). Parens patriae jurisdiction in biodiversity conservation. *Times of India*.
- Lazarus, R. J. (n.d.). Changing conceptions of property and sovereignty in natural resources: Questioning the public trust doctrine. *Iowa Law Review*, 71(631), 200.
- Devkota, Sudeep, Challenges in effective implementation of Environmental Protection Act 1997 and Environmental Protection Rules 1997 in Nepal, *Himalayan Journal of Development and Democracy*, Vol. 6, No. 1, 2011
- Adhikari, Deepa, Motor Vehicle Tax and Polluter Pays Principle (PPP) in Gandaki Province, *Pokhara Research Center*, 2023.
- Surya Prasad Sharma Dhungel vs Godavari Marble Quarry Pvt Ltd. and others*, (Order Writ No. 35 of the year 2049 B.S (1992))
- Narayan Prasad Devkota vs. Rt. Honorable Prime Minister and Prime Minister Office and Others*, NKP 2067 (12), (Writ number 066-WO-0521).
- Yogi Narahari Nath vs. Prime Minister Girija Prasad Koirala and Others*, NKP 2053.