

The planet's polluters should be put in the dock

Only a world environment court can curb capitalism's excesses

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Unseen by most, our world is being transformed at an exponential rate. It is a process driven by unfettered industrial exploitation, growing technological control, soaring population growth and now climate change, the effects of which open up an apocalyptic scenario for the human race.

Man's ecological footprint is now outpacing many of the natural phenomena that govern our world. Indeed, we have almost become our own geophysical cycle. Our biological carbon productivity is now exceeded only by the krill in the oceans. Our civil engineering works shift more soil each year than all the world's rivers bring to the seas. Our industrial emissions eclipse the total emissions from all the world's volcanoes. We are bringing about species loss on a scale of some of the massive natural extinctions of palaeohistory. We are altering the nitrogen cycle. Even in the remotest parts of the world, contaminants like lead and DDT appear in the food chain.

The ravages are there for all to see. Some 420 million people live in countries that no longer have enough crop land to grow their own food. Half a billion people live in regions prone to chronic drought. By 2025 that number is likely to have increased fivefold. Deserts are likely to become hotter. Marine ecosystems are at risk, including salt-water marshes, mangroves, coastal wetlands and coral reefs. In 1998, the hottest year on record, large areas of forest burned down after prolonged drought. By 2050 it is projected that the Amazon will have died back.

Shifts away from equilibrium unlock other changes that interact with the original shifts and grossly magnify their effects until the whole process spirals out of control and makes our planet uninhabitable.

All these threats are being exacerbated by population pressures. It took around 150,000 years for the world population to reach 1 billion in 1804. It took another 123 years to reach 2 billion in 1927. It then took only 14 years to reach 3 billion, a further 14 years to reach 4 billion, 13 years to reach 5 billion, and just 12 years to reach 6 billion. The UN projects global population to rise to 9.3 billion by 2050, by which time almost 90% of the world's people would live in developing countries. The pressures that this exerts on the environment is scarcely calculable.

What can be done? Clearly, what is needed is a framework of international law that permits the operation of free trade and a competitive world economy, but only within parameters strictly drawn to safeguard our planet. No such system of international environmental governance exists at present, and none is being seriously pursued. The realpolitik in the world economy is a powerfully deregulatory one. The first stirrings of resistance to this rightwing corporate hegemony are being seen in the anti-globalisation movement, but this has yet to be translated into a coherent alternative ideology.

The core of a new international environmental governance needs to be the network of multilateral environmental agreements (MEAs) that have been negotiated over the past few decades to protect the global environment. There are 200 of them, covering international trade in waste, chemical pollutants, endangered species, ozone depletion, genetically modified organisms and oil spills. Their weaknesses are that they are not readily enforceable, their coverage is fragmentary and there are many policy gaps where no effective MEAs exist at all.

The most important issue is enforceability. MEA dispute settlement procedures have never been used because the multilateral nature of the issues they deal with make the provision for bilateral dispute settlement procedures largely irrelevant. What is really needed is a world environment court that would enforce a global environmental charter.

The right to bring cases before such a court should not be confined to the governments of nation states, but should include public interest bodies, notably NGOs. The court should also have permanent specialist bodies to investigate damage to the global environment, whether inflicted or threatened, with powers to subpoena evidence and prosecute individuals and corporate bodies. This would only work if properly funded. However, if the fines imposed on corporate offenders were recycled, the court's investigative and legal work would quickly become self-financing.

Alongside a world environment court we also need a strengthened United Nations Environment Programme (Unep) to promote a more sustainable world economy. There need to be three fundamental changes: adequate and reliable funding; the establishment of a forum of world environment ministers, meeting annually; and, most important, it must be put on a par with the World Trade Organisation. While the WTO can require that countries act in accordance with what it calls free trade, Unep cannot require that companies or countries act in accordance with environmental constraints. So unfettered free trade remains the dominant aim, and even where there is an MEA in place that may conflict with some aspect of

trade, the WTO presses to ensure that the latter takes precedence.

Unep should be empowered to receive reports and intelligence, give advice or warning and, where appropriate, take legal action against offenders, either in national courts or in the world environment court. The level of penalties must be on a scale to constitute a deterrent. Just as the WTO permits a retaliatory penalty to be pitched at a level related to the harm done over a breach of trading rules, so the world environment court should impose penalties that require the full remedy of damage to the environment and a fine large enough to deter a repeat offence.

The court could secure justice for the victims of environmental disasters and climate change (mainly developing countries), and apply pressure on the perpetrators (mainly industrialised countries) to avoid such catastrophes. The Red Cross has even suggested that "poor countries might seek legal compensation [from countries causing global warming] to pay for reconstruction through an international tort climate court".

At the national level, corporate social responsibility should mean three things. First, all companies above a certain threshold of turnover or employment should be required to report annually on their environmental and social impacts. At present, in the UK, this is voluntary.

Second, fines should be jacked up. Polluting rivers, illegally discharging chemicals or dumping hazardous waste are often met by derisory fines - a few thousand pounds levied on a company with a turnover of hundreds of millions. These footling fines should be replaced by deterrent penalties related to turnover, and convicted companies or individuals should be "named and shamed" on public registers.

Third, corporate governance in the UK (and other countries) should include the principle of direct responsibility on the part of the directors for the activities of their subsidiary companies abroad. There are many examples of corporate wrongdoing overseas - the depredations of Shell in the Nigerian delta, illegal logging in south-east Asia and South America, chemical spills as at Djibouti from the loading of chromium copper arsenate in plastic containers, and Thor Chemicals' severe factory pollution of the environment in South Africa. There should be statutory provision in the headquarters country to hold the parent company to account.

The approaching apocalypse is not inevitable. This broad framework of global and national governance, though it will be strongly resisted and will take years of patient and persistent negotiation to implement, would arrest the spiral of environmental decline and begin the recovery of our fragile global ecology. It is a new world order whose time has come.

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