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**"GLOBAL ETHICS, INTERNATIONAL LAW,
AND THE EARTH CHARTER "**
PREPARED FOR EARTH ETHICS (SPRING/SUMMER 1996)
by
Steven C. Rockefeller

Introduction

In the course of the past two years, a new Earth Charter initiative has been organized under the leadership of the Earth Council and Green Cross International with support from the Government of The Netherlands. In 1987 the UN World Commission on Environment and Development called for creation of a new charter that would "prescribe new norms for state and interstate behavior needed to maintain livelihoods and life on our shared planet." It had been hoped that the Rio Earth Summit in 1992 would produce agreement on an Earth Charter, clarifying the most fundamental principles of environmental conservation and sustainable development. However, even though the Rio Declaration on Environment and Development is a valuable document, it falls short of the aspirations people have had for the Earth Charter. Therefore, fresh efforts are underway to conduct a world wide process of consultation that will lead to international agreement on an Earth Charter by the year 2000.

In order to address the many interrelated social, economic, and ecological problems that face the world today, humanity must undergo a radical change in its attitudes, values and behavior. An integrated vision of the basic ethical principles and practical guidelines that should govern the conduct of people and nations in their relations with each other and the Earth is urgently needed. In response to this

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situation, a new global ethics is taking form, and it is finding expression in international law. The primary purpose of the Earth Charter Project is to create a "soft law" document that sets forth the fundamental principles of this emerging new ethics of respect for human rights, peace, economic equity, environmental protection, and sustainable living.

The Earth Charter will build on earlier international declarations, charters, and treaties, including those that have been drafted by a variety of non-governmental organizations (NGOs). It must also draw on the discoveries of science, the moral insights of the world's religions, and the extensive world literature on global ethics and the ethics of environment and development. The intention is to create a succinct statement that emphasizes values and principles that are fundamental in character and of enduring significance and that reflect the common concerns and shared values of people of all races, cultures, and religions. It will be written in language that is clear, inspiring, and easily translated. It is hoped that the Earth Charter will become a universal code of conduct for states and people that will do for environmental conservation and sustainable development what the UN Universal Declaration on Human Rights has done for human rights.

The secretariat for the Earth Charter Project is based at the Earth Council in Costa Rica. The Earth Council was established in 1992 following the Rio Earth Summit to promote sustainable development and the objectives of Agenda 21. The chairman of the Earth Council is Maurice Strong, the former Secretary General of the Earth Summit, and the Council's executive director is Maximo T. Kalaw, Jr., of the Philippines. In recent months the Earth Council has launched a world wide Earth Charter consultation process, which is designed to engage men and women from all

sectors of society and all cultures in contributing to development of the Earth Charter. It is recognized that in many ways the consultation process is as important as the final product, because in order for the Earth Charter to win wide support, people and organizations throughout the world must have a sense of ownership of the document. In addition, in order to fulfill its promise, the Charter must articulate values and principles relevant to the practical problems that people face in their everyday lives.

The Earth Charter consultation process is being conducted as part of a larger review of progress toward sustainable development over the past five years since the Rio Earth Summit. The Earth Council has invited a variety of organizations in different parts of the world and diverse sectors of society to become partners with the Earth Council in conducting this Rio+5 review. Each partner organization is expected to involve many other organizations and groups in contributing to the consultation process.

As part of the larger Rio+5 assessment, the partner organizations involved are being asked to make recommendations regarding the Earth Charter and the principles that can and should guide society on the path to sustainability. In this regard the Earth Council is asking all those engaged in the Rio+5 review to give special attention to the values and principles expressed in those best practices and living belief systems that most effectively promote sustainable development. In an effort to further expand public participation in the dialogue on the Earth Charter, the Earth Council will conduct an open "Earth Values Forum" on its Internet web site.

The Rio + 5 review being conducted by the Earth Council will culminate in a Rio+5 Forum scheduled for March 13-17, 1997, in Rio de Janeiro. Over 400 representatives from NGOs, business, and national councils on sustainable development will gather for this event. A special report on the Earth Charter consultation process will be prepared for the meeting. The findings and conclusions of the Rio+5 Forum will be shared the following April with the participants in the annual

meeting of the United Nations Commission on Sustainable Development (UNCSD). The CSD will in turn prepare recommendations for the special session of the UN General Assembly scheduled for June, 1997. At this special session, the General Assembly will complete its own assessment of progress toward sustainable development and prospects for the future.

Contributions to the Earth Charter consultation process that are to be taken into consideration by the Rio+5 Forum must be forwarded to the Earth Council, or to one of the partner organizations in the consultation process, by December, 1996, but the international dialogue on the Earth Charter will continue throughout 1997 and beyond. In this regard, an Earth Charter Commission will soon be assembled by the Earth Council and Green Cross International, the chairman of which is Mikhail S. Gorbachev.

The Commission will be composed of twenty eminent men and women who represent the different sectors of society and regions of the world. The responsibility of the Commission will be to oversee the ongoing consultation process and the drafting of the Earth Charter. The Commission will meet during the Rio+5 Forum and will present a report on the Earth Charter at the special session of the United Nations General Assembly in June 1997. At some as yet undetermined time in 1997 a drafting committee will be formed and a draft Earth Charter will be prepared.

The long range objective for the Earth Charter is approval by the UN General Assembly and ratification by all member states. However, when the Charter has been drafted it will be circulated throughout the world as a people's treaty in the hope that millions of people and numerous religious organizations and NGOs will embrace and sign it. With a strong showing of popular support, it should be possible to achieve approval by the United Nations.

When considering what principles should be included in the Earth Charter one constructive approach is to begin with the principles relevant to the Earth Charter that

have already been articulated in the many international law documents adopted since the Stockholm Declaration in 1972. These various "soft law" and "hard law" instruments and related international reports provide the best overview of the new emerging global ethics. Reflecting on the principles in this material, one can then ask which of them belongs in the Earth Charter and what additional principles are needed and require formulation.

In this regard, a concise summary of international law principles has been prepared for the Earth Charter Project in a document entitled Principles of Environmental Conservation and Sustainable Development: Summary and Survey. The "Summary of Principles" from this document is included at the end of this essay.

It reveals that a very significant consensus is emerging around a number of principles among legal experts, NGOs, UN officials and many government leaders.

The "Summary of Principles" is based on a survey of over forty international legal documents and related reports in the fields of international environmental and sustainable development law. Among the documents consulted are the major soft law instruments created over the past twenty-five years, including the Stockholm Declaration (1972), World Charter for Nature (1982), Rio Declaration (1992), and Agenda 21 (1992). Included in the survey are important international treaties such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (1975), the UN Framework Convention on Climate Change (1992), and the Convention on Biological Diversity (1992). The report of the World Commission on Environment and Development, Our Common Future (1987), and the report of the World Conservation Union (IUCN), United Nations Environment Programme (UNEP), and World Wide Fund For Nature (WWF), Caring for the Earth: A Strategy for Sustainable Living (1991), have also been used. In addition, the "Summary of Principles" has been much influenced by a new draft International Covenant on

Environment and Development prepared by the IUCN Commission on Environmental Law and now under consideration at the United Nations. This draft International Covenant endeavors to consolidate and extend the relevant international law and to clarify the ecological and ethical foundations of this new body of law.

The material in the "Summary of Principles" has been organized under nine different categories, including, for example, World View, The Rights of People, Sustainable Development, Equity and Justice, Governance and Security, and Environmental Protection. The language used in formulating each principle is for the most part borrowed from the various legal instruments consulted, but the phrasing used in any one principle may be drawn from several different sources. The objective has been to articulate clearly the general ideas involved in each principle. The larger report, from which the "Summary of Principles" has been excerpted, identifies in a "Survey of Principles" the international documents in which the various principles may be found and shows how the formulation of each principle has evolved over the years.

A Report Format has been designed to organize contributions to the consultation process. (A copy of the Report Format is included in this edition of Earth Ethics for use by readers.) Among the questions in the Report Format are several that ask contributors to reflect on the "Summary of Principles" in making recommendations regarding the scope and specific content of the Charter. When responding to the various questions in the Report Format, it is important to keep in mind that the Earth Charter must express attitudes, values and principles that can unite people in the midst of all their diversity.

**Summary of Principles in International Environmental and
Sustainable Development Law and Related Reports**

I. The Goal: A Global Partnership

The general objective of international environmental and sustainable development law is formation of a global partnership of all peoples and nations to ensure for present and future generations the well-being of humanity and the larger community of life by promoting equitable and sustainable development and by protecting and restoring the health and integrity of the Earth's biosphere, of which all life is a part and apart from which humanity cannot survive or realize its creative potential. This global alliance should be founded on commitment to an integrated framework of shared ethical principles and practical guidelines.

II. Preamble: The Human Situation

The environmental and developmental problems facing humanity involve a complex of interrelated issues including: increasing degradation of the global environment, deterioration and depletion of natural resources, excessive consumption, rising population pressures, perpetuation of disparities between and within nations, poverty, pollution, ignorance, injustice, and armed conflict. The decisions and choices humanity makes in response to the challenge of these critical problems will have major consequences for the future of life on Earth. Humanity stands at a defining moment in its history.

III. World View

1. The biosphere is a unity, a unique and indivisible ecosystem, and all of its diverse constituent parts are interdependent.
2. Humanity is part of nature and the community of life, and all life depends for survival and well-being on the functioning of natural systems.
3. Every life form is unique and possesses intrinsic value independent of its worth to humanity. Nature as a whole and the community of life warrant respect.

IV. A Common Concern and Universal Responsibility

1. The well-being of the community of life and the protection of the environment are a common concern of humanity.
2. Nature as a whole, the Earth, and all life forms should be respected. All persons have a fundamental responsibility to respect and care for the community of life.
3. Protect, preserve, and, insofar as possible, restore the health and integrity of ecosystems, ensuring the functioning of essential ecological processes and life support systems throughout the Earth.
 - a. Provide special protection to fragile ecosystems such as are found in deserts, semi-arid lands, mountains, wetlands, and certain coastal areas and on small islands.
4. Conserve biodiversity including the diversity of species, the range of

genetic stocks within each species, and the variety of ecosystems.

- a. Provide special protection to endangered species and their habitats.

V. The Rights of People

1. All human beings, including future generations, have a right to an environment adequate for their health, well-being, and dignity, and the responsibility to protect the environment.

2. All persons, without being required to prove an interest, have the right to seek, receive, and disseminate information on activities or measures that are likely to have environmental impact and the right to participate, individually or collectively, in relevant decision-making processes.

3. All peoples have a right to their economic, social, political and cultural development and a responsibility to adopt sustainable patterns of development.

4. All human rights and fundamental freedoms are interdependent and indivisible.

VI. Sustainable Development

1. The purpose of development is to meet the basic needs of humanity, improve the quality of life for all, and ensure a secure future.

2. All humanity has the duty to integrate environmental conservation with development activity at all stages and levels so as to achieve sustainable development, keeping human resource use and related activity within the limits of the carrying capacity of supporting ecosystems. Sustainable development promotes the well-being of both people and ecosystems.

3. Protection of the environment is best achieved by preventing environmental harm rather than by attempting to remedy or compensate for such harm.

a. Activities which are likely to cause irreversible environmental change or damage should be avoided altogether.

4. Activities which are likely to cause potential or actual harm to the environment shall be preceded by a thorough environmental impact assessment.

5. Precautionary Principle: In situations where there is the risk of irreversible or serious damage to the environment, lack of full scientific certainty shall not be used as reason to postpone action to avoid potentially irreversible or serious harm to the environment.

6. The development and implementation of appropriate demographic policies, ensuring that human population levels remain within the carrying capacity of the Earth, are necessary to improve the quality of life for all people and to protect the environment.

7. The elimination of unsustainable patterns of production and

consumption is essential and requires adoption of the following measures.

- a. Minimize the depletion of non-renewable resources.
- b. Ensure all renewable resources are used sustainably.
- c. Use all resources with restraint and as efficiently as possible.
- d. Develop and adopt technologies that increase energy efficiency.
- e. Develop and adopt technologies that use renewable resources to generate energy.
- f. Prevent, reduce, and control pollution.
- g. Minimize waste: reduce the volume of materials used, reuse, recycle.

8. Governments, businesses and other organizations should cooperate in promoting the development and adoption of environmentally sound technologies.

9. Policy makers should adopt a system of economic indicators for measuring economic health and development that reflects the full social and environmental cost of human activities, thereby integrating environmental and economic measures.

10. The prices of commodities and raw materials should reflect the full direct and indirect social and environmental costs of their extraction, production, transport, marketing, and, where appropriate, ultimate disposal.

11. Peace and security, environmental protection, sustainable

development, and respect for human rights and fundamental freedoms are interdependent and indivisible.

VII. Equity and Justice

1. Intergenerational Equity: Each generation has a responsibility to recognize limits to its freedom of action in relation to the environment and to act accordingly with appropriate care and restraint so that future generations inherit a world that meets their needs.

2. The achievement of sustainable development requires creation of a just and equitable international economic system which ensures that the costs and benefits arising from the use of natural resources are shared fairly among the nations, between rich and poor, and between present and future generations.

3. The eradication of poverty is an ethical imperative and an essential requirement for sustainable development and environmental protection.

4. The particular situation and needs of developing countries, especially of the least developed and most environmentally vulnerable, is a high priority, and the developed countries bear a special responsibility to provide essential financial, scientific, technical, and legal assistance in support of the developing countries' pursuit of environmental conservation and sustainable development.

5. States should cooperate with other nations in establishing joint research efforts for developing environmentally sound technologies and

facilitate the transfer of such technologies, strengthening national capacities and accelerating the transition to sustainable development throughout the world.

6. Equality and equity between women and men and the full participation of women in all spheres of social, cultural, economic, and political life, including management decision-making, are essential to the achievement of environmental conservation and sustainable development.

7. The identity, culture, and interests of indigenous peoples, and especially their traditional approaches to sustainable development, should be respected and supported. Indigenous peoples have the right to control their lands, territories and natural resources, and they should be provided opportunities to participate in decision-making processes that are likely to affect their interests in the area of environment and development.

VIII. Governance and Security

1. All States have (a) the sovereign right to utilize their resources to meet their sustainable development needs and (b) the responsibility to develop and implement a national plan for the protection and preservation of the environment within the levels of their national jurisdiction, and to ensure that activities within their jurisdiction or control do not cause potential or actual harm to the environment of other States or areas beyond the limits of national jurisdiction.

2. In view of the different contributions to global environmental degradation and differences in financial and technological resources, States have common but differentiated responsibilities. Accordingly, the developed countries acknowledge the responsibilities that they bear in the international pursuit of sustainable development.

3. Transparent and accountable governance and the democratic participation of all concerned persons in decision-making processes are prerequisites for achievement of environmental protection and sustainable development.

a. Strengthen NGOs and increase their participation.

4. Environmental education programs should be established in school systems as an integral part of general education at all levels, and environmental information and opportunities for environmental training should be provided to the public, ensuring that all people have the knowledge, skills, and values to cooperate in protecting the environment

and achieving sustainable development.

5. All persons have the right to effective access to judicial and administrative proceedings, including for redress and remedy, in enforcing their environmental rights. States shall ensure that a person in another State who is adversely affected by transboundary environmental harm has the right of access to administrative and judicial procedures equal to that afforded to its own citizens in cases of domestic environmental law.

6. States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. Each State is liable for significant harm to the environment of other States and to areas beyond the limits of national jurisdiction. States shall cease the activities causing significant harm, restore the damaged environment insofar as possible, and where that is not possible, provide compensation or other remedy for the harm.

7. States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations.

8. States shall cooperate in the further development of international law and in formulating and strengthening of international rules, standards and recommended practices on issues of common concern for the protection and preservation of the environment and sustainable use of natural resources, taking into account the need for flexible means of implementation based on their respective capabilities.

IX. Environmental Protection

1. States shall take, individually or jointly as appropriate, all measures necessary to prevent, reduce, and control pollution, giving special attention to the disposal in an environmentally safe manner of radioactive, toxic, and other hazardous wastes that cannot be reused or recycled.

2. States shall conduct and encourage scientific research and establish scientific monitoring programs for the collection of environmental information on all aspects of the environment and on human environmental impacts, ensure the dissemination of scientific data and information, and promote scientific cooperation in the fields of environmental conservation and sustainable development, strengthening national capacities.

3. States shall establish specific national standards, including emission, quality, product, and process standards, designed to prevent harm to the environment or to restore or enhance environmental quality.

4. States shall take appropriate measures to prevent transboundary environmental harm. Do not do to others what you would not do to your own citizens.

- a. Ensure prior and timely notification and consultation.
- b. Set standards, monitor, exchange information.
- c. Establish contingency plans for emergencies, including

prompt notification.

5. Transboundary natural resources should be used in a reasonable and equitable manner, and States should cooperate with other States in the conservation and restoration of such natural resources.

6. States have an obligation to protect and preserve the atmosphere and to take appropriate measures with regard to activities under their jurisdiction or control to prevent, reduce, or control any atmospheric interference or significant risk thereof, which threatens harm to human health, the community of life, or ecosystems.

7. States shall ensure the conservation and where necessary the regeneration of soils for all living systems by taking effective measures to prevent soil erosion, to combat desertification, to safeguard the processes of organic decomposition and to promote the continuing fertility of soils.

8. States shall take all appropriate measures to maintain and restore the quality of water including atmospheric, marine, ground and surface fresh water, to meet basic human needs and as an essential component of aquatic systems. They shall, in particular, establish standards to safeguard the supply and quality of drinking water and to maintain the capacity of aquatic systems to support life.

9. States shall prohibit the intentional introduction into the environment of alien or modified organisms which are likely to have adverse effects on other organisms or the environment. They shall also take the appropriate measures to prevent accidental introduction or escape of such organisms.

10. Nature shall be secured against degradation caused by warfare or other military activities.

11. Natural and cultural areas, including Antarctica, of outstanding aesthetic, cultural, ecological, scientific, and spiritual significance should be identified, protected, preserved, and restored.

12. Outer space, including the moon and other celestial bodies, is part of the common heritage of humanity, and the exploration and use of outer space should be carried out exclusively for peaceful purposes and so as to equitably benefit and serve the interests of all nations and peoples, including future generations. The exploration and use of outer space should avoid the harmful contamination of the environment in space and on the moon and other celestial bodies and should also avoid causing harm to the environment on Earth through introduction of extraterrestrial matter.

Note: In a section on "Elements of a world ethic for living sustainably," the IUCN/UNEP/WWF report Caring for the Earth (1991) endorses the principle that "People should treat all creatures decently and protect them from cruelty, avoidable suffering, and unnecessary killing." However, to date a principle of this kind, that

is, one concerned with the treatment of individual sentient beings as distinct from species, has not been included in international law. Documents like the World Charter for Nature and the Convention on Biological Diversity affirm the intrinsic value of species and call for protection of biodiversity, but they are silent on the issue of the abuse of individual animals and the cruel treatment of other creatures.

This raises the question as to whether the Earth Charter should include one or more principles that address this issue.

(Steven Rockefeller is a Professor of Religion at Middlebury College and a member of the Earth Charter Management Committee. He is the co-editor of Spirit and Nature: Why the Environment is a Religious Issue [Beacon Press, 1992]. The document entitled Principles of Environmental Conservation and Sustainable Development: Summary and Survey, which has been prepared for the Earth Charter Project by Professor Rockefeller, will soon be made available on the Earth Council's Internet web site.)