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The South and the Earth Summit: The Development/Environment Dichotomy

Dr. Ranee K.L. Panjabi*

I. Introduction: The Right to Development and the Right to a Safe Environment

Although critics have for years derided the United Nations for its lack of effectiveness in solving the problems of this world, they have frequently overlooked the resounding success of that World Institution in arousing public awareness on a global level about human rights and human responsibilities.

The many political failures of the United Nations should not obscure the fact that peasants in India are aware of and fighting for environmental protection; that in 1989 residents of Beijing (China) acquired the courage to demand political freedom; that the people of Lithuania agitated for and eventually obtained sovereign right to self-determination; that presently the people of Somalia by virtue of their quiet misery are stirring the conscience of the world, which is rushing them the food and medicine to fulfil their right to life. When the member States of the United Nations formulated the principles embodied in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,¹ no one could have predicted how much enthusiasm these ideals would generate globally on the popular level. Nor could one have forecast how these formulations would inspire international debate and pressure for reform across the world. Hardly any one would dispute the fact that people are more aware of their rights now than at any time in his-

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1. For text of these documents see *Everyone's United Nations*, (New York: United Nations, 1979), 412-38.

tory. This is largely due to the development of communications systems which have turned our planet into a vast global village. However, technology alone could not have achieved this awareness of the need for improvement in the human condition and indeed, of the right that human beings have to improve their lives. While one would not wish to over-rate the impact of the Covenants, there is a clear linkage between the process by which people awaken to their rights — a process often initiated by the acquisition of knowledge about other populations who enjoy such rights — and the agitation for reform consequent to that process of awareness. That such agitation seeks global support and internal justification goes without saying. The fact that foreign support is usually presumed and frequently given suggests that certain human rights are now viewed as fundamental and normal. We have in recent months witnessed considerable popular sympathy around the world for the struggle of the people of Croatia and Bosnia. The Kurds in Iraq have been the object of universal concern as they struggle against the tyranny of Saddam Hussein. The existence of United Nations Covenants pledging support to the implementation of human rights has been significant in popularizing the principles enshrined in those documents and in educating people to the possibilities of a better life. The gathering of so many nations at the United Nations Headquarters in New York cannot but rivet the attention of the whole world to the activities at that Organization. Inevitably the process of human awareness and awakening has resulted in a demand for change and a clamor for reform. The strength of this process can be gauged by the rapid disintegration of the totalitarian system which ruled the Soviet Union for so many decades and its replacement by a more democratic, economic and political ruling philosophy.

Indeed, human rights have now become so significant in international political forums that academics have been prompted to analyze and categorize the various rights and to explain and define them. Karel Vasak compared the development of the law of human rights by reference to the famous slogan of the French Revolution of 1789, "Liberty, Equality and Brotherhood" and concluded that there are three generations of human rights.² Civil and political rights, enshrined in the Universal Declaration of Human Rights (1948), the European Convention on Human Rights (1950), the International Covenant on Civil and Political Rights (1966) and the American Convention on Human Rights (1969)³ may be considered first generation rights. The so-called equality rights, comprising the second generation, may be found in the Universal Declaration of Human

2. DAVID OTT, PUBLIC INTERNATIONAL LAW IN THE MODERN WORLD 238 (1987).

3. *Id.* at 239.

Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966) and the European Social Charter (1961).⁴

Civil and political rights, constituting the first generation, are now to be found in numerous national constitutions. "Preservation of these rights in the municipal law and national constitutions of most democratic countries confirms the widely held opinion that these basic rights have gained near universal acceptance."⁵ The second generation, namely economic, social and cultural rights,⁶ "require states to act positively toward the creation of better economic and social conditions for their citizens. Whether these rights are binding on a government is debatable. It has been suggested that the rights are binding to the extent that a government must strive toward their fulfilment."⁷

It is the third generation of rights, the so-called Solidarity Rights, which are believed to "transcend national boundaries and may be thought of as rights against the international community of states as a whole."⁸ These rights include the right to economic development, the right to peace and the right to a healthy environment as well as rights to humanitarian assistance and to the common human heritage.⁹ Unfortunately, "[t]he third generation of rights even less firmly invokes any sense of obligation on the part of governments."¹⁰ Although at the popular level, there is widespread interest in and recognition of the validity of these rights and universal concern about both development and the environment, the global fulfilment of these ideals by the member states of the United Nations continues to be a problem. It is difficult to implement third generation rights largely because they "imply an interdependence of individuals and nations, and, by extension, of individuals in all countries. But this interdependence would be essentially negative if it involved only mutual obligations. Its positive aspect is that it also involves mutual interests insofar as every individual shares with every other one the need for a suitable international order."¹¹ The basic challenge is to get governments around the world to appreciate the nature of these shared interests and to act to implement the universal global consciousness which has already manifested itself in both the developing and developed world. Governments are by their very nature protective of national sovereignty and in the international arena, they can,

4. *Id.* at 243.

5. Dr. Ramee K.L. Panjabi, Book Review, 30 VA. L. REV. 319 (1989).

6. J. CRAWFORD, *THE RIGHTS OF PEOPLES* 41 (J. Crawford ed. 1988).

7. PANJABI, *supra* note 5, at 320.

8. OTT, *supra* note 2, at 244.

9. *THE RIGHTS OF PEOPLES*, *supra* note 6, at 141-42.

10. PANJABI, *supra* note 5, at 320.

11. OTT, *supra* note 2, at 244.

on occasion, cling tenaciously to their self-interest even at the expense of vital universal needs. Hence the formulation of international environmental law is a process in which nations appear to inch forward, far too slowly for environmental activists and with far too much time consumed in mutual recrimination, inter-state bickering and an apparent lack of commitment to the urgent requirement to save the planet.

At Rio de Janeiro in Brazil in June 1992, another step forward was taken along the route to salvaging our planet and like most of the other such steps, it was accompanied by a veritable drama of rhetoric and mutual fault-finding. At this great Earth Summit, two third-generation rights clashed head-on, the right to development and the right to a healthy environment. It is rather ironic that these two concepts formed the theme of the summit and were its main focus. Without development in Afro-Asia and Latin America, millions will die of malnutrition and its consequent diseases. But if environmental concerns are not recognized as crucial to the developmental process, the entire planet could be at jeopardy with global warming, increased greenhouse gases, pollution of water and land resources and deforestation. The Rio process fell victim to nationalistic priorities in some developing and developed nations which publicly espoused positions largely because of their impact on domestic opinion. And so the world inches forward at the pace of a tortoise in the formulation of international instruments to protect the environment while the destruction and degradation of the planet proceeds at a faster pace than that of the proverbial hare. In this race, the odds are regrettably against the survival of the planet. This is rather ironic because with the end of the Cold War and democratization proceeding in the former communist states, there has never been a more opportune moment to effect dramatic and positive change in matters of international concern. Unfortunately, the political act of ending the Cold War is now seen in retrospect as a considerably easier task than the economic task of creating a fair distribution of the world's wealth. Although rigid totalitarian ideologies have failed and 'evil Empires' have fallen and crumbled, none of this has dramatically alleviated the plight of millions who continue to starve and die in horrifying numbers every day. Indeed, it could be argued that while international temperament on an East-West confrontation has cooled, perhaps forever, the arguments on a North-South level have become more serious, more vocal and more confrontational.

Nowhere is the agitation for a new world order as strong as in the debate between the developed nations, collectively referred to as the North and the developing nations, now called the South. The confrontation between these two great blocs of nations has been

ongoing for some years now. Even though the dialogue is at times bitter and vehement, there is now a clear realization that the two parts of this planet have a desperate need for each other and neither one can survive without the other. The Earth Summit at Rio (officially known as the United Nations Conference on Environment and Development - UNCED) held in the first half of June 1992 provided symbolic recognition of that inter-dependence and of the vulnerability of both the North and the South. It also provided an important forum for the South which acquired the opportunity to vent its own frustration at what it believes to be serious economic injustice. As India's Prime Minister, P.V. Narasimha Rao told delegates at the Earth Summit,

we inhabit a single planet but several worlds. There is a world of abundance where plenty brings pollution. There is a world of want where deprivation degrades life. Such a fragmented planet cannot survive in harmony with Nature and the environment or indeed, with itself. It can assure neither sustained peace nor sustainable development. We must, therefore, ensure that the affluence of some is not derived from the poverty of the many. As Mahatma Gandhi put it with characteristic simplicity, our world has enough for each person's need, but not for his greed.¹²

II. The Perceptions of the South

This article explores some of the perceptions and viewpoints of the South in an attempt to establish a greater level of mutual understanding than exists at the present time. To explain the Southern position, this article concentrates on two subjects which are crucial to both North and South, forest development and preservation and the international debt crisis and its impact. The human rights to development and to a safe and healthy environment cannot be achieved while reckless development and crippling debt wreak their havoc both in the short and long term for North and South alike. These two topics provide us with a dramatic picture of the type of problem policy makers confront in both the North and the South as they struggle to better the lot of their people. As all readers are doubtlessly aware, there are several areas of dispute between the rich and poor nations. No single study of this length could hope to explore them all with any degree of depth. This article also suggests that unless this dialogue can concentrate more on activity and less on acrimony, the entire planet will suffer irreversible damage. Just as in the past, international measures aimed at armament limitation could

12. Prime Minister P.V. Narasimha Rao of India, Speech at the Earth Summit (June 12, 1992).

only be implemented by agreement between East and West, now it has to be realized that any serious attempts at environmental protection cannot be formulated without the cooperation of both the North and the South. So the development of environmental law has now become largely dependent on the resolution of the North-South conflict and any solutions will only be possible if the New World Order acquires an economic focus rather than a purely political emphasis.

There is an urgency about this situation and it may well be the most compelling political, economic and social issue of this decade. With the end of the Cold War the entire world must now turn its full attention to the problems of development and the environment, the two aspects of life on this planet which have assumed crucial significance and fundamental importance simply because they affect the lives of every single man, woman and child in every country. There is already a growing global consensus at the popular level that the amount of poverty, disease and suffering of the majority of inhabitants of this planet is almost obscene when compared with the wealth, comfort and well-being of its more fortunate minority. The affluence of the developed nations is being challenged not merely because it is in such stark contrast to the poverty of the developing world. Such difference in life-style is being questioned on grounds of principle now, principle which seeks its intellectual and moral grounding in the rights embodied in the United Nations Covenants. The wealth of the few is also being challenged because there is a growing awareness — thanks to the statistical information provided by technological systems of assessment — that the production and enjoyment of that Northern affluence is largely at the cost of the developing world. Further concerns have been raised because the extravagance in resource utilization which has given a minority so comfortable a lifestyle has resulted in extensive degradation of the fragile eco-systems which are crucial to human survival on this planet. The dialogue of dissension between North and South contains numerous areas of dispute and all these varied threads can often become tangled with the pragmatic need for governments to ensure their domestic survival. This article will attempt, first generally and then more specifically, to examine some aspects of the North-South confrontation in an attempt to highlight the perceptions and hopefully, clarify the misconceptions which have generated so much unnecessary misunderstanding and mistrust. It is important first to understand the wider picture of this confrontation before focusing on any of its details. One might begin by examining the basic assumptions of both North and South about the responsibility each element bears for the future survival of the planet.

As a result of a shared imperial past, the developed nations —

the imperial states — and the developing world — their former colonies — begin the debate on opposite sides. The often violent struggle for freedom from colonial rule generated attitudes on both sides which have spilled over into present dialogues on matters pertinent to the entire planet. That history should form so significant a part of the current debate is unfortunate but inevitable. The attitudes of the nations of the South are conditioned by the memory of past exploitation and they come to the present debate with those pre-conceptions, always alert to and suspicious of Northern motives which they fear are once again predatory. The North also suffers from a general disinclination to understand these Southern apprehensions and fears which are solidified by the activities of some multinational companies which to this day are perceived in Afro-Asia and Latin America as carrying out the imperial, exploitative activities of the past.

The Southern tendency, as their presentations at Rio demonstrate, is to over-simplify the issue and to visualize the North, or at least particular countries, specifically the United States of America, as hostile to Southern development. There is a refusal to see complexity and diverse opinion on both sides of this dialogue. It is very unfair to assume that the United States Government, American multinational companies and the American people are all cast in the same mold. Yet such is the nature of North-South misunderstanding that such assumptions are frequently made, at least at the public level. Accordingly, the entire debate begins on a foundation of mutual misunderstanding.

This base of misunderstanding colors the subsequent dialogue because when the North emphasizes the primacy of universal concerns, the South perceives this as another ploy to deprive the South of developmental benefits by imposing Northern environmental priorities. When the South makes a desperate plea about the poverty of its population, the North counters by emphasizing the importance of population limitation. In a very real sense, the two parties are not talking to each other but almost posturing past each other. I must emphasize that although I have labelled the respective positions Northern and Southern for convenience, it has to be understood that there is considerable divergence within each of these elements as each group contains moderates and extremists. The study of that kind of divergence would require the length of an entire book.

Another problem which frequently arises in this dialogue concerns the tendency of both North and South to spend time on mutual recrimination rather than on active reconciliation. No one in the North would deny that industrialization as it proceeded in Britain, Europe and North America has been extravagantly wasteful in its use of resources and that it has resulted in widespread environmental

destruction in the form of acid rain, the hole in the ozone, the death of thousands of lakes, the depletion of the fisheries and the devastation of thousands of species. As Senate Majority Leader, George Mitchell has commented: "We — mainly the industrialized nations — have become the Prometheus of the twentieth century, destroying our own habitat."¹³ Although the evidence is clearly there of the price to be paid for such development, elements of the South are unwilling to absorb that lesson and seek instead the benefits of quick development regardless of the economic cost to their environment. The North perceives this approach as short-sighted and obtuse, refusing to recognize how severely the hunger, disease and consequent death in the South weigh on the minds of policy planners in the developing nations.

Accordingly the priorities of the North and South are different. Having destroyed so much of the environment in its rush to development, the North seeks to regain a balance in Nature and allow the Earth to be revitalized and cleansed of its pollutants and contaminants. The nations of the South argue instead that development, rapid development, has to be a primary consideration in the minds of its governments and the consequences of such development will have to be dealt with as a secondary factor. The Northern emphasis on the environment is perceived by some Southern governments as an insidious attempt to delay development and to keep their populations starving so that the North can continue to enjoy its exclusive lifestyle. B.B.C. Correspondent Stephen Bradshaw commented on this aspect of the conflict: "But governments in the South aren't just asking for more handouts to improve squalid living conditions. They also say that if the North is asking them to develop more slowly to protect the planet from pollution, they'll lose billions of dollars and remain in poverty for decades to come."¹⁴ Both sides of this dispute appear to miss the point that a shared interest in development within an environmentally safe mode promises enrichment for both North and South.

Ironically, while both North and South take measures which daily degrade the planet, both these elements adopt the high road of adherence to environmental principles in their public positions. There is no dearth of advocates of environmentalism today. What is now required is the will to implement the ideas which are now accepted world-wide. In effecting such action, the North and the South confront each other on the most serious aspect of their argument — money. The cost of such clean-up and of environmental protection is

13. GEORGE J. MITCHELL, *WORLD ON FIRE* 46 (1991).

14. Stephen Bradshaw, *B.B.C. News and Current Affairs* (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

perceived as being beyond the resources of any one nation or even of groups of nations. The South insists that the North pay for environmental action because it has created most of the pollution of the planet. The North is equally insistent on its right to control the distribution of any funds it authorizes for global environmental protection to ensure that proper use is made of the money. Such assertions are resisted as imperialistic by the South, which counters with references to its heavy debt burden to Northern banks, a financial squeeze which makes rapid development imperative and environmental protection a secondary consideration.

Having examined in broad terms some aspects of the confrontation, it would be worthwhile now to examine more specifically a few of the problems of the South, the very real dilemma facing developing nations as they confront the two priorities of environment and development in the critical circumstances of vast poverty and desperate living conditions for millions. Although it is not possible within the scope of this article to explore all the problems and consider all the nations of the South, a study of particular aspects of the global situation with a few pertinent examples should serve to illustrate the serious nature of the crisis. A few issues like the debt crisis and forestry development are indicative of the dimensions of the problem and also provide insight into the real clash of interests which underlies the North-South conflict. Interestingly, the Earth Summit at Rio served to focus international attention on the problems of the South and also provided much-needed publicity in the North about the linkage between the need for a clean environment and the requirements of basic necessities to sustain life in the South.

Even though not all nations of the world accept the idea of an inherent right to development, there is now widespread recognition that the implementation of this human right in the South is the best guarantee of the continued enjoyment of the right to development in the North. This recognition is not merely an increase of universal compassion or of humanitarian concern. It is a reflection of a vital self-interest which perceives the inter-dependence of all parts of this world and of the vital necessity of realizing that no area of Space-ship Earth can be written off or disregarded if the whole is to survive and thrive in the next century. Although the right to development "remains a putative right not fully accepted into the body of generally accepted international law,"¹⁵ the nations of the South are no longer prepared to remain the permanent poor relations of the North. The issue of economic fairness underlies much of the debate and will continue to be the dominant theme in international affairs

15. THE RIGHTS OF PEOPLES, *supra* note 6, at 39.

this decade. Because of the reluctance of some Northern states to yield their economic advantages for a wider necessity of environmental benefit for all, and "[d]espite the overwhelming acceptance by the United Nations General Assembly of the Declaration on the Right to Development¹⁶ . . . the acceptance of a right to development remains questionable."¹⁷

The recognition of this North-South divergence of opinion also affects governmental and non-governmental attempts to come to grips with and tackle the daunting and very depressing situation of environmental degradation, much of it a consequence of the Northern rush to development and industrialization. Even though there is now a widespread realization in the North that the entire planet has paid a terrible price for progress, convincing governments in the South not to emulate the North is no easy matter. First, Governments like those of the United States under President Bush, seemed reluctant to assume the role of world environmental leader and take the bold and brave decisions to clean up the planet and protect it from further degradation. The energy brought by the United States of America to the creation of a new world order in the realm of international politics has unfortunately not been matched by an equally enthusiastic commitment in the economic or environmental field. Consequently, there is no example to inspire the other nations of the world, particularly those in the South. Second, although the North preaches endlessly to the South about sustained development, it does not practice to any great extent what it preaches. The reduction in standard of living which has occurred in developed countries in the past few years has been more a consequence of global recession than because of any serious attempt to curtail this way of life. Recessionary pressures have to some extent achieved a modicum of reduction in this most envied of lifestyles but as the North eases out of its recession, the old habits will probably return. At the present time, 23 percent of the world's population controls 85 percent of its income.¹⁸ So much concentration in a few hands, largely in the North means that approximately 1 billion people (out of the world's present population of 5.48 billion¹⁹) have to survive on less than \$1 per day.²⁰ The South believes that it is hypocritical of the North to

16. G.A. Res. 41/128, 41 U.N. GAOR Supp. No. 53 at 186, U.N. Doc. A/41/925 (1986). The vote was 146 in favor, 1 against (United States), 8 abstentions. See THE RIGHTS OF PEOPLES, *supra* note 6, at 51-52.

17. DR. RANEE K.L. PANJABI, *Describing and Implementing Universal Human Rights*, TEX. INT'L L.J. 197 (1991).

18. U.N. DEVELOPMENT PROGRAMME HUMAN DEVELOPMENT REPORT 1991 (1991), cited in SANDRA POSTEL, *Denial in the Present Decade*, STATE OF THE WORLD 1992 4 (1992).

19. GLOBE AND MAIL, April 29, 1992, at A1.

20. WORLD BANK, WORLD DEVELOPMENT REPORT 1991 (1991), cited in SANDRA POSTEL, *Denial in the Decisive Decade*, STATE OF THE WORLD 1992 4 (1992).

control so much of world's wealth, utilize so much of its resources and create so much of its pollution and then attempt to lecture the South on the observance of reasonable development. Some Southern leaders have been very vocal in demanding that the North curtail this massive consumption which eats away at the Earth's resources. As Malaysian Prime Minister, Dr. Mahathir Bin Mohamad commented "You're asking us to cut back on our standard of living by asking us not to develop. Why can't we tell you to do the same? If you want us to do it, you do it first."²¹ The Prime Minister of India was somewhat more gentle in his remark: "we cannot have conservation of the environment without the promise of development, even as we cannot have sustained development without the preservation of the environment."²² The difference in tone between the two statements should not obscure the underlying similarity of the call for greater economic equity by these two prominent Asian leaders. Michael Howard, Environment Secretary for the United Kingdom, expressed sympathy with this Southern concern when he stated, "[o]f course we recognize the need for them to improve their economic situation, to improve the lot of their people. What we must do, together, is to achieve economic development in a way that is sustainable and in harmony with the environment."²³

Although in the developed world, we can appreciate the planetary dangers of Southern development emulating the earlier Northern example, we cannot convince the South about our own sincerity unless we are willing to demonstrate, not merely by talk but by action as well. Although Rio demonstrated that a number of Northern nations are dedicated to the curbing of greenhouse gases and to the protection of bio-diversity, the fact that this dedication to environmentalism has not permeated with the same degree of intensity to all Northern governments was noted by the Southern leaders who did not fail to remark on it.

The conflict between developmental and environmental rights is hampered by a fundamental economic inequity which has first to be dealt with if any kind of serious action is to be taken to assure the future of our planet. For all its loud clamoring, the South is well aware that it does not have equal status in the North-South dialogue. The North enjoys the wealth, the industries, the highly-edu-

21. Interview with Dr. Mahathir Bin Mohamad, *Stephen Bradshaw, B.B.C. News and Current Affairs* (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

22. P.V. Narasimha Rao, Prime Minister of India, Speech at U.N.C.E.D., (June 12, 1992).

23. Interview with Michael Howard, M.P., *Stephen Bradshaw, B.B.C. News and Current Affairs*, (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

cated work force, the space and the life-style while the South is burdened with over-population, malnutrition, ever-increasing poverty, lack of living space and arable land and a lifestyle which is annually declining in comparison to that of the North. "In 1987, the average income per capita in the First World was \$12,070, while it was \$670, or 6 percent of \$12070, in the Third World. Ten years earlier, this number was 9 percent, so the income of the poor actually decreased."²⁴ It is an awareness of the growing disparity between North and South which fuels much of the assertiveness of the Southern governments in no longer asking or begging for economic equity but in demanding it as their right. In the process of seeking fundamental reform in the way the world's wealth is distributed, the South has to use all the levers it can bring to a very unequal dialogue.

One such lever was utilized in the 1970's when the states of the Middle East realized that they had for years been selling their oil at bargain prices to the North and reaping little of the benefit. In 1973 these countries raised the price of oil dramatically and set off a severe economic crisis in Northern countries which had become dependent on cheap and abundant Arab oil.

Now, in the 1990's, the South has found another lever, its own development and the risks its industrialization process poses for the air and climate of the North. Further, in proceeding with the destruction of its forest resources, it deprives the North of the one great cleaner which can still absorb its own foul gases. Now that the South has found a new point of leverage, it has not been slow to exploit its significance in both the media and in negotiations before the Earth Summit. For the South, "[t]he essential question, in the context of the North-South Dialogue, is how the burden of adjustment is to be shared in an equitable manner."²⁵ There is now a strident awareness that "[t]he South has consistently subsidised the gargantuan consumption of the North,"²⁶ that in future the "development of the South can in no way be compromised by the North's pre-emption of the global environment space,"²⁷ and that now "[a] reform of the world economic system is, therefore, vital so that all citizens of the world, including the world's poor, are empowered to take control of their environment while the rich are made to

24. THE GLOBAL ECOLOGY HANDBOOK: WHAT YOU CAN DO ABOUT THE ENVIRONMENTAL CRISIS (Walter H. Corson ed. 1990), cited in HELEN CALDICOTT, IF YOU LOVE THIS PLANET 123 (1992).

25. *Environment and Development: Towards a Common Strategy for the South in the UNCED Negotiations and Beyond*, SOUTH CENTRE (Nov. 1991).

26. CENTRE FOR SCIENCE AND ENVIRONMENT, *The CSE Statement on Global Environmental Democracy to be Submitted to the Forthcoming UN Conference on Environment and Development*, New Delhi, India.

27. SOUTH CENTRE, *supra* note 25.

pay the ecological costs of their consumption."²⁸

III. The Forest as an Issue in the Development/Environment Dichotomy

The dilemma between environmental and developmental priorities is most noticeable in the debate about the world's forests. It is this issue which most clearly highlights the Southern position and its suspicion of the motives of the North. Having denuded much of its forest cover in the process of industrialization and expansion of its urban population the developed world has discovered that it has now become dependent on the developing nations which now contain approximately 90 percent of the world's tropical forests.²⁹ Although by one estimate, developed countries have a 34 percent forest cover as against a 29 percent forest cover for developing states,³⁰ approximately 50 to 90 percent of the treasure trove of bio-diversity is to be found in the tropical forests of the South.³¹ "Half of Latin America is covered by forests, as is 33 percent of Asia and 27 percent of Africa."³² Some Southern nations are very fortunate in the extent of this vital resource. As Malaysian Prime Minister Dr. Mahathir Bin Mohamad pointed out at the United Nations Conference on Environment and Development at Rio, the land of his nation "is almost 60 percent covered with self-regenerating tropical rain forest with an additional 15 percent covered by tree plantations."³³ By way of contrast Britain has only 10 percent of its land under forest cover.³⁴ It is important to note that because of reforestation, forest acreage in the developed world continues to expand, but in developing nations the opposite is the case and the rate of deforestation has accelerated.³⁵ "In some countries the losses are dramatic. In Madagascar only 34 percent of the original forest cover is left. In the Cote d'Ivoire and the Philippines four-fifths of the original forest has been cleared. Ethiopia's forest cover dwindled from 40 percent of her land area in 1940 to only 4 percent fifty years later."³⁶ Almost 40 percent of the world's forest cover had disappeared by 1980.³⁷ The Earth's remaining acres of rain forest are mainly found in the Amazon region, in Central Africa and in Southeast Asia (specifically in Malaysia, Indo-

28. CSE, *supra* note 26.

29. WORLD MONITOR, June 30, 1992, at 31.

30. PAUL HARRISON, *THE THIRD REVOLUTION 90* (1992).

31. CHRISTIAN SCIENCE MONITOR, June 2, 1992, at 10.

32. THE TIMES (London), June 10, 1992, at 12.

33. Dr. Mahathir Bin Mohamad, Speech at U.N.C.E.D., Rio de Janeiro, Brazil (June 13, 1992).

34. THE TIMES (London), June 2, 1992, at 10.

35. HARRISON, *supra* note 30, at 91.

36. HARRISON, *supra* note 30, at 91.

37. MITCHELL, *supra* note 13, at 38.

nesia and New Guinea).³⁸ Of all of these, the Amazon is the largest, covering “nearly three million square miles, an area nearly as large as the entire United States. It spans nine South American countries from Brazil in the east to Peru in the west, and from Venezuela in the north to Bolivia in the south.”³⁹

The forests of the world are important for more than just their timber. Besides providing shelter and a way of life for thousands of the world’s indigenous people, forests are a treasure trove of biological diversity. “Those portions of the earth that are covered with forests play a critical role in maintaining its ability to absorb carbon dioxide (CO₂) from the atmosphere and are thus essential in stabilizing the global climate balance.”⁴⁰ Ben Jackson, an environmentalist with the World Development Movement explains that: “The forest plays a key part in regulating climate by its effects on the reflectivity of the land surface and by the way in which it recycles water from the earth back into the atmosphere.”⁴¹ The Earth’s forests are one important element in the present war against global pollution. With the loss of 1.5 acres of forest every second to felling and land-clearance,⁴² the entire planet stands to lose a vital global resource. “The destruction of a forest can affect the hydrological cycle (the natural water distribution system) in a given area just as surely as the disappearance of a large inland sea.”⁴³ Forests contribute to the production of rain clouds⁴⁴ and therefore are vital in bringing rain for agricultural crops. “More water is stored in the forests of the earth — especially the tropical rain forests — than in its lakes.”⁴⁵ Other benefits of forest cover include cleansing of the air and water and balancing of the climate.⁴⁶ The Earth’s forests “also stabilize and conserve the soil, recycle nutrients through the shedding of their leaves and seeds (and eventually their trunks when they die), and provide the most prolific habitats for living species of any part of the earth’s land surface. As a result, when we scrape the forests away, we destroy these critical habitats along with the living species that depend on them.”⁴⁷

The nation with the largest concentration of tropical forest —

38. AL GORE, *EARTH IN THE BALANCE* 117 (1992).

39. MITCHELL, *supra* note 13, at 37.

40. GORE, *supra* note 38, at 115-16.

41. BEN JACKSON, *POVERTY AND THE PLANET* 29 (1990).

42. Michael Wines, *Bush trying to Counter Criticism, Offers to Save Earth's Forests*, N.Y. TIMES, June 2, 1992, at A10.

43. GORE, *supra* note 38, at 106.

44. GORE, *supra* note 38, at 106.

45. GORE, *supra* note 38, at 106.

46. Michael Renner, *Creating Sustainable Jobs in Industrial Countries*, STATE OF THE WORLD 1992 150 (1992).

47. GORE, *supra* note 38, at 116.

Brazil⁴⁸ — is already suffering the consequences of earlier deforestation. “Logging and agricultural and urban expansion have destroyed more than 95 percent of the once-vast Atlantic coastal rain forests and the coniferous Araucaria forests of southern Brazil.”⁴⁹ The poverty of the majority of Brazilians and the population’s pressure on the rain forest can partly be attributed to serious economic inequity within that nation. “Just 2 percent of Brazil’s landowners control 60 percent of the nation’s arable land. At least half of this land lies idle.”⁵⁰ Although there has been some reduction in logging the Amazon rain forest since 1990, prior to that date the destruction proceeded at an alarming pace. The previous military regime in Brazil (1964-1985) allowed and even encouraged — with tax incentives — wholesale destruction via slash and burn of large sections of the Amazon forest. “In the past decade the forest has declined by 12 percent.”⁵¹ The Amazon has fallen victim to the situation created by the world’s iniquitous economic order. Providing a readily marketable commodity, wood, the logging continues, albeit not at the frantic pace of the past. Environmentalists around the world fear that economic “pressures have turned the Amazon into a battleground and may eventually turn it into a desert.”⁵²

There are varied statistical estimates concerning the extent of deforestation and even about the amount of forest cover left on this planet. One estimate suggests that since 1972, the world has lost approximately 500 million acres of forests, “an area roughly one-third the size of the continental U.S.”⁵³ The United Nations has calculated that by the year 2000, developing nations will lose approximately 40 percent of their remaining forests if present trends continue.⁵⁴ Given an annual loss of 15 million hectares, much of it in Africa, Asia and Latin America, the outlook for the next century is bleak indeed.⁵⁵ The Food and Agriculture Organization has concluded that tropical deforestation accelerated during the 1980’s to approximately 1 percent of the forest cover every year.⁵⁶ “This amounts to two-thirds of the area of the United Kingdom. Every ten

48. JOHN C. RYAN, CONSERVING BIOLOGICAL DIVERSITY, STATE OF THE WORLD 1992 10 (1992).

49. RYAN, *supra* note 48, at 10-11.

50. JACKSON, *supra* note 41, at 26.

51. GLOBE AND MAIL, June 2, 1992, at B26.

52. AUGUSTA DWYER, INTO THE AMAZON: THE STRUGGLE FOR THE RAIN FOREST XI (1990).

53. TIME, June 1, 1992, at 22.

54. UNITED NATIONS, GLOBAL OUTLOOK 2000 85 (1990).

55. *Id.*

56. FAO Forest Resources Assessment Project, *Second Interim Report on the State of Tropical Forests*, 10th World Forestry Congress, Paris, September 1991; cited in HARRISON, *supra* note 30, at 92.

weeks an area the size of the Netherlands. A Barbados every day.”⁵⁷ Vice President Al Gore has commented that: “Wherever rain forests are found, they are under siege.”⁵⁸ The Vice President explained the situation affecting the world’s forests: “They are being burned to clear land for pasture; they are being clear-cut with chain saws for lumber, they are being flooded by hydroelectric dams to generate power. They are disappearing from the face of the earth at the rate of one and a half acres a second, night and day, every day, all year round.”⁵⁹

The disappearance of forests is also attributable to the great increase in the demand for land for cattle grazing. In India, the need to feed 196 million head of cattle has resulted in an unprecedented assault on forested acreage.⁶⁰ Forests are being felled daily and the land converted to pasture. Environmentalist Jeremy Rifkin has calculated that an average cow consumes about 410 kilos of vegetation per month and is “literally a hoofed locust.”⁶¹ As global meat production has nearly quadrupled since 1950,⁶² the amount of land devoted to growing animal fodder has also increased, by as much as five-fold in Mexico between 1960 and 1980, to give only one example.⁶³ “Without question, ranching is a factor in tropical deforestation.”⁶⁴ It has to be remembered that the reason for much of the emphasis on cattle rearing is directly related to the global demand for beef. Although beef consumption has fallen in some nutritionally-conscious societies, this product is still a vital commodity in world agricultural trade.

It has been argued that the incentive to destroy tropical forests arises with consumer demand in the industrialized nations of the North.⁶⁵ “Markets in the North demand a wide range of tropical products, sometimes wood and wood derivatives, sometimes animal or plant products grown in the clearings. The hard currency earned by the export of these items is a powerful incentive to entrepreneurs and governments in the South alike The insatiable desire of consumers in the North for wood panelling, for hamburgers, and for cocaine is imperilling the future of forests in several tropical countries.”⁶⁶ Whether the demand springs from the North or from the

57. HARRISON, *supra* note 30, at 92.

58. GORE, *supra* note 38, at 117.

59. GORE, *supra* note 38, at 117-18.

60. Alan Durning and Holly Brough, *Reforming the Livestock Economy*, STATE OF THE WORLD 1992 73 (1992).

61. TIME, April 20, 1992, at 58.

62. GLOBE AND MAIL, June 4, 1992, at A19.

63. *Id.* at A19.

64. TIME, April 20, 1992, at 58.

65. IVAN L. HEAD, ON A HINGE OF HISTORY 102 (1991).

66. *Id.*

South itself, the destruction of forests is an equally serious consequence.

The case of El Salvador is indicative of the possible future of a number of countries which are presently richly forested. This Central American nation was once covered by forests over 90 percent of its land.⁶⁷ Now after the depredations of population encroachment and agricultural expansion, these vast tracts have been reduced to "a single 20 square kilometre plot of cloud forest."⁶⁸ Political and economic instability have forced approximately 1 million Salvadorans to flee their homes.⁶⁹ The country can barely support its growing population and poverty, malnutrition and consequent diseases are part and parcel of the life of the majority of those who still live in that country.

It is estimated that Malaysia, presently rich in forests will deplete this resource by the year 2000.⁷⁰ India, Sri Lanka, Nicaragua, Honduras and Guinea are only some developing regions which have almost lost or will soon lose their forest resources.⁷¹ For Bangladesh, the loss of forest cover has resulted in extensive flooding.⁷² Thailand lost almost half of its forests between 1961 and 1985.⁷³

The area of land suffering an annual loss of forest cover is approximately equal to the size of the State of Washington.⁷⁴ As with all environmental problems, it would be naive to assume that the consequences of such loss of forest cover are confinable within national borders. "The presence or absence of trees anywhere is a major factor in the world's environmental health everywhere."⁷⁵ It is now apparent that "deforestation of a watershed in one country can lead to flooding in a neighbouring country. Destruction of a forest habitat for migrating wildlife can lead to the loss of a species in another country. Loss of tropical forests, which act as major absorbants of greenhouse gases, can speed the warming of the world climate."⁷⁶ At the present time, forests cover only 7 percent of the land surface of the Earth.⁷⁷ However, this small area is home to approximately 50 to 90 percent of the 10 million or more species which inhabit this planet.⁷⁸ Although it is internationally recognized that

67. *Id.* at 125.

68. H.J. Leonard, *Managing Central America's Renewable Resources*, INTERNATIONAL ENVIRONMENTAL AFFAIRS 38-56 (1990), cited in HEAD, *supra* note 65, at 125.

69. HEAD, *supra* note 65, at 126.

70. *Green, Greener, Greenest*, NEWSWEEK, June 1, 1992, at 23.

71. *Id.*

72. *Id.*

73. *Id.*

74. N.Y. TIMES, June 2, 199, at 10.

75. HEAD, *supra* note 65, at 101.

76. GLOBE AND MAIL, June 6, 1992, at A4.

77. CHRISTIAN SCIENCE MONITOR, June 2, 1992, at 10.

78. *Id.*

"[f]orest conservation is the key to preserving the Earth's heritage of biological diversity and harbours the secrets of new life-saving drugs and other products,"⁷⁹ acting on this awareness is another matter altogether.

Although it is now also clear that the threat to the world's forests constitutes a major environmental crisis, the will to solve this problem is lacking. Nations of the North continue to fell their own forest resources to reap immediate profits from the logging industry and then with what developing nations regard as incredible hypocrisy, turn around and blame the nations of the South for following their example! Photographs taken by satellites have demonstrated comparatively that the forests of the Pacific Northwest — the richest in the United States — show far more damage from clear-cutting than the rain forests of Brazil.⁸⁰ The Government of President George Bush which promised \$150 million a year in aid to developing countries to preserve their forests,⁸¹ simultaneously worked to open logging activities on 4 million acres of United States territory which contain old growth forests.⁸² Similarly although the Canadian Government's forestry negotiators emphasized the fact that "[a]s part of the global community, we have a responsibility to manage our forests so as not to impair the transboundary or global environment,"⁸³ logging continues to decimate the forests of British Columbia. "Forty years ago, Vancouver Island's pristine temperate rain forest, one of the few left anywhere in the world, held 4.2 million acres (1.7 million hectares) of trees. By 1990, however, loggers had clear-cut more than half the prime timberland. The rest could be gone in 25 years."⁸⁴ It is this apparent double-standard which prompts the South to question the seriousness of the Northern commitment to environmental concerns.

The insatiable demand for wood in developed countries, particularly in Japan, is the major incentive which prompts some nations of the South like Malaysia to fell their ancient forests at such an alarming rate. In the weeks and months preceding the Rio Summit, the developing nations were at pains to explain their position on forest utilization to the Western media and to justify their use of this resource because of sheer economic necessity. The South Centre explained its public relations strategy: "The South should launch a global public information campaign to present forcefully the South's

79. THE TIMES (London), June 2, 1992, at 1.

80. John Holusha, *The Earth Summit Poll Finds Skepticism in U.S. about Earth Summit*, N.Y. TIMES, June 11, 1992, at A13.

81. N.Y. TIMES, June 9, 1992, at A8:3.

82. N.Y. TIMES, June 11, 1992, at A13.

83. GLOBE AND MAIL, June 6, 1992, at A4.

84. TIME, June 1, 1992.

position on environment and development and to gain understanding and support among the public in the North for its position. Such a campaign is also necessary to counter the negative image of the South that is often propagated by the media in the North concerning the South's position on global environmental issues.⁸⁵ At Rio, the tone became considerably sharper, given the international audience available and some nations were quite strident in their insistence that the right to development had to be a priority to improve the living conditions of their burgeoning populations.

The developing nations argue that first, their use of resources is not the major ecological problem for planet Earth. According to the United Nations, the richest of the world's nations — comprising 20 percent of a total population of over 5.4 billion people⁸⁶ — utilize 83 percent of its output.⁸⁷ Accordingly in the mind of the nations of the South, it is consumer and business demand in the developed world which determines the type and degree of resource utilization in the countries of Afro-Asia and Latin America. The example of Indonesia illustrates several facets of the problem. Indonesia, blessed with vast forest reserves is rapidly logging and felling this resource to earn foreign exchange. Although it has other marketable commodities, it is the wood of its rich forests which elicits foreign consumer demand. Because of its financial situation as a developing nation, it has no option but to exploit the available resource and market it. Although its initial ventures were in the export of raw logs, in 1982 Indonesia banned their export as it sought to develop its indigenous plywood industry.⁸⁸ In order to secure the necessary dominance in the plywood trade, it hastened its exploitation of the forest resource and secured almost one half of the world's trade in plywood between 1982 and 1987.⁸⁹ "In the understandable desire to seize and hold the market, Indonesians have reduced prices much below where they should be, which forces additional productive exploitation on the one hand and encourages profligate consumption practices on the other."⁹⁰ Japan imports most of Indonesia's plywood and uses about one third of this material "to fabricate concrete forms for the construction of building foundations. These panels, amounting to 135 million square metres in 1987 alone, are often discarded after being used just once."⁹¹ As Indonesia requires approximately \$2 billion per year to service its debt just to Japan, "the linkage between foreign

85. SOUTH CENTRE, *supra* note 25.

86. GLOBE AND MAIL, May 20, 1992, at A2.

87. GLOBE AND MAIL, May 20, 1992, at A2.

88. HEAD, *supra* note 65, at 104.

89. *Id.*

90. *Id.*

91. *Id.*

debt and forest depletion can be illustrated dramatically."⁹² There are few alternatives available to the nations of the South in their fight to survive and this point was heavily underscored at the Earth Summit. Indonesia has lost so much topsoil because of this assault on its forests that "the net value of the timber crop has been reduced by approximately 40 percent."⁹³

The case of the Philippines is even more serious than that of Indonesia. The rush to development in that nation resulted in the destruction of this vital resource and according to Robert Repetto, an economist with the World Resources Institute, "failure by the Philippines to collect the full resource value of its timber harvest resulted in the recovery of less than one-sixth of the possible revenue."⁹⁴ The Philippines, Brazil and Indonesia have banned the export of logs⁹⁵ but for the Philippines in particular the measure was taken far too late. Fulgenchio Factoran, Environment Secretary for the Philippines explained that his nation "lost the fertility of our soil, the fish-bearing capacity of our rivers and our seas. We've lost our healthy corals, our mangroves, we've lost the opportunity to feed millions of Filipinos through good agricultural practices and we've lost water for irrigation that would have fed the farms. We've lost all of that. We've lost a big future for millions of Filipinos."⁹⁶

Vietnam, "[r]avaged by chemical warfare, collectivized clear-cutting and rampant commercial logging,"⁹⁷ has offered monetary inducements to farmers to grow trees. In 1942 Vietnam contained 13 million hectares of forest. By 1982 this had dwindled to 6 million hectares.⁹⁸

The South also argues that the profligate use of resources by the developed nations has brought the world to the state of both environmental and economic crisis. The Centre for Science and Environment in India has explained that: "There is an enormous difference in the economies of developing and industrialised countries in environmental terms. The former continue to depend heavily on the exploitation of their natural capital to meet their current consumption needs and generate the investments needed to build up a stock of human-made capital and a knowledge and skills resource base. The industrialised countries, on the other hand, have already gone through a prolonged phase of natural resource exploitation, both

92. *Id.*

93. GORE, *supra* note 38, at 185.

94. GLOBE AND MAIL, June 2, 1992, at B26.

95. UNITED NATIONS, GLOBAL OUTLOOK 2000, 87 (1990).

96. Interview with Fulgenchio Factoran, *Stephen Bradshaw*, *B.B.C. News and Current Affairs*, (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

97. GLOBE AND MAIL, June 9, 1992, at A1.

98. GLOBE AND MAIL, June 9, 1992, A8.

within their own countries and outside, to build up a massive base of human-made capital, knowledge and skills."⁹⁹ The earlier industrialization of the developed world has given it a permanent advantage in terms of assuring its economic supremacy for decades to come. This primacy of Northern priorities is increasingly resented by the South which suffers both from the fact that its resource utilization is based on Northern requirements and because it then has to shoulder Northern criticism for the consequent pollution, soil erosion, deforestation and climate change which occur. As the Centre for Science and Environment explains: "Today, the reality is that northern governments and institutions can, using their economic and political power, intervene in, say, Bangladesh's development. But no Bangladeshi can intervene in the development processes of Northern economies even if global warming caused largely by Northern emissions may submerge half the country."¹⁰⁰

The nations which are today collectively labelled the South have for years provided primary materials to the West to enable it to progress with its own rapid industrialization. During the colonial era, the economies of Africa and Asia were geared to the production of raw materials, often by the conversion of self-sufficient agrarian systems to more globally marketable agricultural commodities like cotton and tea which were primarily grown on large plantations. The molding of colonial economies to the requirements of the imperial power set in place a pattern of resource exploitation which continued after decolonization and independence came to Africa and Asia. As the Malaysian Prime Minister commented at Rio, "As colonies we were exploited. Now as independent nations we are to be equally exploited."¹⁰¹ The economic system was hardly tampered with by cash-strapped governments in the newly-emerging nations which desperately craved foreign exchange to buy the manufactured goods they could not yet produce for themselves. Although nations like India embarked on ambitious industrialization plans and succeeded to some extent, the benefits of this ambitious economic turnover have not been sufficient to eradicate poverty in that large nation of 850 million people.¹⁰² The West is willing to buy raw materials from such poor developing nations but is wary of importing manufactured items, particularly when these are likely to compete with domestic products. John Stackhouse of *The Globe and Mail* has commented

99. THE CENTRE FOR SCIENCE AND ENVIRONMENT, THE CSE STATEMENT ON GLOBAL ENVIRONMENTAL DEMOCRACY TO BE SUBMITTED TO THE FORTHCOMING UN CONFERENCE ON ENVIRONMENT AND DEVELOPMENT. New Delhi, India.

100. *Id.*

101. Dr. Mahathir Bin Mohamad, Speech at U.N.C.E.D., Rio de Janeiro, June 13, 1992.

102. *GLOBE AND MAIL*, June 18, 1992. A1.

on the trade barriers India faces when it seeks to export its goods to developed nations.¹⁰³

The extent of Northern reliance on raw materials from the South and the impact of this situation on deforestation globally can be illustrated by the example of Canada. In 1988, Canada imported wood and wood products worth \$139.6 million and paper and paper products worth \$86.8 million from tropical and East Asian nations like Indonesia, Taiwan, Brazil and Malaysia.¹⁰⁴ "Of much greater significance to deforestation in Canada's merchandise trade accounts are those tropical products grown in circumstances where, for the most part, the forests first have to be cleared. In 1988 the value of these products was: coffee, \$432.2 million; citrus, \$391.2 million; cocoa and products, \$153.8 million; natural rubber, \$134.2 million."¹⁰⁵

Most insidious of all is the fact that "[i]n the Andes, in the Caribbean, and in Southeast Asia, forests are cleared to permit the cultivation of coca, marijuana, and opium poppies for heroin."¹⁰⁶ It appears to the Governments of the South that the North continuously sends mixed signals in this great debate about forest protection. The South is confused because on the one hand it is counselled, it insists, in a rather patronizing manner, to conserve its forests, while on the other hand its forest products are among its most marketable commodities in the North. Although the bio-diversity of the South is perceived as vital to the emerging bio-technological industry of the North, the demand for wood and paper and the enormous debt burden of Southern nations necessitate continued deforestation.

Clearly,

[t]he forest . . . is suffering from multiple attacks from many directions. Many of these attacks combine to strengthen their impact. While farming and ranching eat at forest from without, logging degrades it from within and opens it up to faster penetration by farmers As the forest area dwindles, farmers add to forest degradation by hunting, grazing animals and gathering fuelwood."¹⁰⁷

The South is most resentful of the assumption by developed nations that the remaining forests are a global asset¹⁰⁸ and resource, part of the heritage of mankind and therefore to be cherished and protected. However, idealistic such thoughts appear to Northern environmentalists, in the South they are perceived as a new form of

103. GLOBE AND MAIL, June 18, 1992, A11.

104. HEAD, *supra* note 65, at 105.

105. *Id.*

106. *Id.* at 106.

107. HARRISON, *supra* note 30, at 108.

108. Paul Lewis, *The Earth Summit talks in Rio Wrap Up Principles for Preserving the World's Forests*, N.Y. TIMES, June 13, 1992, at 4.

imperialism and a threat to national sovereignty. In a television interview given to Stephen Bradshaw of the British Broadcasting Corporation, Malaysian Prime Minister Dr. Mahathir Bin Mohamad in response to a question about the forest being a common inheritance of mankind, stated very firmly: "No, no. It is not a common inheritance unless you are willing to pay for it. You don't pay for it. You expect us to pay for it. No go!"¹⁰⁹ Malaysian diplomat Ting Wen Lian commented: "We are certainly not holding our forests in custody for those who have destroyed their own forests and now try to claim ours as part of the heritage of mankind."¹¹⁰ The fact that such suggestions come largely from the United States of America, which, like Malaysia, is one of the world's large exporters of timber,¹¹¹ adds to the suspicions of the South that the North is really only interested in curbing Southern development, particularly when it is competitive. The other conclusion is that "the North wants to have a direct say in the management of forests in the poor South at next to no cost to themselves."¹¹² This is again an example of the level of misunderstanding which prevails in both the North and the South, misunderstanding and mistrust colored by history and present economic realities.

The debate can also become quite pointed on occasion. Patricia Adams, writing in *The Globe and Mail* alleged that in Sarawak (Malaysia), "almost all timber concessions are owned by Malaysian politicians, their relatives or their companies."¹¹³ As former United Kingdom Ambassador to the United Nations, Sir Crispin Tickell (who has advised British Prime Ministers, Margaret Thatcher and John Major on environmental issues) asserts:

It always sticks in my gullet when we say to someone, "you must look after the rights of those who live in the forests and act as its trustees," and we're told not to be colonialists because in fact the big colonialists are the peoples of the poor countries, the elites of the poor countries who simply want to grab . . . land, grab . . . resources and make money . . . all of this in the name of "development".¹¹⁴

It is certainly true that the profits of forest destruction do not benefit the inhabitants of those regions. Both local entrepreneurs and for-

109. Stephen Bradshaw, Television Interview for B.B.C. (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

110. William K. Stevens, *U.S. Trying to Buff Its Image, Defends the Forests*, N.Y. TIMES, June 7, 1992, at 20.

111. *Id.*

112. Dr. Mahathir Bin Mohamad, Speech at U.N.C.E.D., Rio, June 13, 1992.

113. GLOBE AND MAIL, June 4, 1992, at A19.

114. Interview with Sir Crispin Tickell, B.B.C. News and Current Affairs (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

eign developers prosper. As Vice President Gore has suggested:

Tropical countries . . . have frequently been encouraged to cut down their rain forests and sell the lumber as a strategy for development, but much of the cash ends up in the hands of a wealthy few (and in bank accounts in industrial countries), leaving the populace even worse off, stripped of their natural resources with little in return.¹¹⁵

Award-winning environmental author Paul Harrison voices a similar feeling in stating that

The pillaging of the rainforests is not the result of ignorance or incompetence. In many tropical countries, the rainforests serve as political pork barrel. They have been plundered for quick gains by politicians and their proteges. In most of Latin America, they are sacrificed to the landless as an alternative to land reform. In Asia and Africa they offer an alternative to creating urban jobs or investing in rural areas.¹¹⁶

With such assertions foreign environmentalists do little to endear themselves to the leaders of the South who decide the extent to which their governments will support ecologically safe development. The tendency of developing nation governments is to suggest that the West oversimplifies the entire issue and cannot grasp the complexity of the development/environment dichotomy as it exists in the Southern context. The Malaysian Minister of Primary Industries, Dr. Lim Keng Yaik in a speech given at Kuala Lumpur (Malaysia) to mark World Forestry Day compared the arguments used by environmentalists to those held by Nazis:

More and more people in the West are falling for such naive, discriminatory and simplistic solutions. This is where the danger lies. The Nazis tried to offer a simplistic solution for the economic and social ills that Germany went through in the 30's. Look what havoc they brought to Germany, Europe and the rest of the world.¹¹⁷

With some allowance for rhetorical exaggeration, the very fact of such blunt statements is indicative of the chasm in North-South relations over the environment-development dichotomy. In a kinder, gentler tone, Dr. Lim Keng Yaik underlined the dilemma facing all nations of the South, namely the problem of "how to protect the environment and have development," and, he continued, to "find an

115. GORE, *supra* note 38, at 312.

116. HARRISON, *supra* note 30, at 98-99.

117. Speech taped in Stephen Bradshaw's television report on the Summit, B.B.C. News and Current Affairs (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

equation that allows for that."¹¹⁸

Equations of that type invariably involve money, considerable amounts of it and financial considerations underlie much of the North-South confrontation over the forests. The most vocal proponents of the Southern position happen to be the Malaysians. As one of Malaysia's most outspoken diplomats Ting Wen-Lian commented: "If developed countries want developing countries to preserve their forests, they should address the poverty, famine and crushing burden of external debt" which impels so much of this deforestation.¹¹⁹ Her Prime Minister, Dr. Mahathir Bin Mohamad spoke for much of the South when he told delegates at the Earth Summit that:

[t]he poor countries have been told to preserve their forests . . . on the off-chance that at some future date something is discovered which might prove useful to humanity. This is the same as telling these poor countries that they must continue to be poor because their forests and other resources are more precious than themselves Denying them their own resources will impoverish them and retard their development.¹²⁰

Although the South demonstrated a remarkable degree of unity at Rio and in the meetings leading up to the Summit, it is also clear that within Southern nations there are diverse viewpoints on the utilization of the forests. While the indigenous people who have inhabited forested areas for centuries are upset by the upheaval, other inhabitants of those nations find the logging an avenue of escape from abject poverty. The diversity of opinion can be gauged from the remarks of first, a villager in Malaysia, a forest dweller who told Correspondent Stephen Bradshaw, "For me, if the leaders who are meeting could stop the logging, that would please me the most."¹²¹ On the other hand, a logger in Sarawak, one of 230,000 employees of logging concerns there told him that "If we don't cut down the trees there's no money. If we don't work, we won't have enough to eat."¹²² The centuries-long way of life of indigenous tribal people is being threatened by the deforestation. These people who have managed to live in harmony with their environment for generations now find their home — the forest — disappearing before their very eyes. Southern leaders are especially sensitive about the allegations of violations of the human rights of indigenous people, allegations which are usually made by the North. The challenge is to find other

118. *GLOBE AND MAIL*, June 3, 1992, at B10.

119. *GLOBE AND MAIL*, June 6, 1992, at A4.

120. Dr. Mahathir Bin Mohamad, Speech to U.N.C.E.D., Rio, June 13, 1992.

121. Stephen Bradshaw Interview in Malaysia, B.B.C. News and Current Affairs (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

122. Stephen Bradshaw Interview in Sarawak, B.B.C. News and Current Affairs (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

sources of employment in the South so that the rush to develop does not result in disruption for ancient ways of life and ultimately, disaster for the entire planet.

Awareness of the likelihood of such a catastrophe prompted the initiation of the Tropical Forestry Action Plan in 1985 to promote sustainable use of the forests. This plan was the first attempt at international action to alleviate some of the problems of rampant deforestation.¹²³ That same year the International Timber Agreement came into force with the objective of encouraging reforestation and forest management.¹²⁴ Thailand no longer permits commercial logging of its remaining forests.¹²⁵

What the South requires is no less than a total economic restructuring of the world,¹²⁶ a shift in trade and movement of goods to enable the developing nations to derive a fair profit from the sale of their products with encouragement from the North to enable more varied economies to arise in Southern states. In 1984, only 13.9 percent of global industrial production originated in the South. It is significant to note that this percentage was lower than Southern production percentages for 1948.¹²⁷ "The South's share of world trade fell from about 36 percent in 1955 to about 25 percent in 1987. Three-quarters of the investment activities of multinational corporations are in the North; transnational banks have lent 75 percent of their stock of loans in the North."¹²⁸ Commenting on the increase in the developed world of protectionist policies over the past decade,¹²⁹ the World Bank has estimated that a 50 percent "reduction in trade barriers by the European Community, the United States and Japan would raise exports from developing countries by \$50 billion U.S. a year. That's roughly equal to the total flow of foreign aid to the poor countries last year. And it would provide critical resources to address environmental and other problems."¹³⁰ A change in attitude, an end to the siege mentality by which elements of the North seek to protect their own standard of living at any environmental cost, would signal a recognition of a need for a more equitable world economic system, a system geared to environmentally safe development and the implementation of basic economic rights for the populations of the developing world. Given the climatic and environmental inter-dependence of the regions of this planet, it would be naive to assume that the

123. UNITED NATIONS GLOBAL OUTLOOK 2000 86-87 (1990).

124. *Id.* at 87.

125. *Id.*

126. SOUTH CENTRE, *supra* note 25.

127. HEAD, *supra* note 65, at 73.

128. *Id.* at 59.

129. GLOBE AND MAIL, June 11, 1992, at A17.

130. *Id.*

North can somehow be immunized against the problems which plague the South.

IV. The Debt Burden and Development

In a position paper written for the United Nations Conference on Environment and Development, the Centre for Science and Environment, located in New Delhi, India suggested that:

Since the economic levers of power in the world — aid, trade and debt — lie largely with the North, it is its moral responsibility to provide a lead that gives confidence to the South. The North must indicate its willingness to deal with basic issues that force the South the scrape the earth. And, most importantly, it must stop preaching.¹³¹

This idea is not restricted to the South. Vice President Al Gore has suggested that “[a]s the world’s leading exemplar of free market economics, the United States has a special obligation to discover effective ways of using the power of market forces to help save the global environment.”¹³²

The most basic and crucial of all the problems which plague the nations of the developing world are a direct result of the crippling burden of external debt borne by many of these countries. Although the so-called Third World debt crisis of 1982 is said to be over, the external debt of developing countries remains at a staggering \$1281 billion by 1991 estimates of the World Bank.¹³³ Brazil (the world’s biggest Third World debtor) owes \$98.3 billion; India’s debt is \$72 billion and Mexico owes \$98.3 billion.¹³⁴ At the beginning of the present decade, interest payments on foreign debt totalled \$100 billion annually.¹³⁵ “For much of the past decade, developing countries have given more money to the North — through imports, debt repayments and dividends — than they have received.”¹³⁶ The increase during the 1980’s in debt servicing costs, combined with a decline in exports and reduction in assistance has brought havoc to many of the poorest of the developing nations.¹³⁷ It is now universally recognized that “there is a net outflow of resources from developing to developed countries.”¹³⁸ Concern over this issue prompted the United Nations General Assembly to pass a resolution in July 1986 urging that “this net transfer of resources from developing to developed coun-

131. CSE, *Statement on Global Environmental Democracy*, New Delhi, India.

132. GORE, *supra* note 38, at 347.

133. GLOBE AND MAIL, Aug. 17, 1992, at B1.

134. *Id.*

135. HEAD, *supra* note 65, at 66.

136. GLOBE AND MAIL, Aug. 17, 1992, at B9.

137. HEAD, *supra* note 65, at 60.

138. KATARINA TOMASEVSKI, *DEVELOPMENT AID AND HUMAN RIGHTS* 6 (1989).

tries has reached such proportions and is increasing at such a pace that concerted action is required on the part of the international community to halt and reverse the process."¹³⁹ On February 24, 1992, Tariq Osman Hyder, Director-General, Economic Coordination in the Ministry of Foreign Affairs of Pakistan confirmed that "in today's recessionary international economic situation, the net transfer of resources between developing and developed countries is in fact negative."¹⁴⁰

Dr. Helen Caldicott comments that "[t]hird world debt is exacerbating global environmental degradation."¹⁴¹ She goes on to offer an explanation for the debt crisis in layman's terminology. The enormous quantities of petro-dollars (earned by the oil-exporting nations after the 1973 oil crisis and the consequent rise in the price of that resource) were deposited in a number of Western banks which, to utilize the money, lent it to poor developing nations who were short of cash, partly as a result of the sudden upsurge in oil prices. A lending spree ensued with enormous loans to the Philippines, Chile, Brazil, Argentina, Mexico and Uruguay, to name only a few. "Lending to Latin America increased from \$35 billion in 1973 to \$350 billion in 1983."¹⁴² Because of the fluctuation of interest rates on these loans, the cost of servicing these enormous debts rose as the interest rates escalated and remained high in the 1980's. "Each 1 percent increase in the interest rate meant \$4 billion more that Latin America had to give American banks in interest payments."¹⁴³ The result, coupled with a global recession which cut Third World exports, was that "between 1973 and 1980, Third World debt increased by a factor of four, to \$650 billion."¹⁴⁴ The economies of several countries in the developing world have been on a downward spiral since the 1970's and as yet there appears to be no end in sight for some of them. "The United States in particular is worried that debt is exacerbating political instability in their Latin American 'backyard'."¹⁴⁵ The United Nations Children's Fund (UNICEF) estimated in the late 1980's that half a million children a year died because of the impact of the debt crisis and the recession, two elements of economic malaise which led to a 10 percent drop in the standard of living in Latin America and an even worse drop of 20

139. *Id.*

140. Tariq Osman Hyder, Joint Statement of the Group of 77 and China to the Fifth Intergovernmental Negotiating Committee for a Framework Convention on Climate Change, February 24, 1992, New York.

141. HELEN CALDICOTT, *IF YOU LOVE THIS PLANET*, 129 (1992).

142. Susan George, *A Fate Worse than Debt*, B.B.C. Documentary, 1990 cited in HELEN CALDICOTT, *IF YOU LOVE THIS PLANET*, 130 (1992).

143. HELEN CALDICOTT, *IF YOU LOVE THIS PLANET*, 130 (1992).

144. *Id.*

145. BEN JACKSON, *POVERTY AND THE PLANET*, 89 (1990).

percent in Africa.¹⁴⁶ As Peruvian economist Javier Iguiniz commented: "I don't like Western solutions to the debt crisis—they kill too many people."¹⁴⁷

Madagascar's plight illustrates the consequences of the debt crisis. Depending largely on the export of unprocessed agricultural commodities, Madagascar is immediately prey to the fluctuations of world market pricing. Its debt level of \$956 million in 1980 rose to \$3317 million by 1988.¹⁴⁸ "Debt service, which used up less than 4 percent of export earnings back in 1970, swallowed almost ten times that proportion in 1988 The country . . . had to slash government spending savagely, from 23 percent of gross national product in 1965, to only 12 percent in 1988."¹⁴⁹

In thirty-seven of the poorest countries of the world, per capita spending on health has been halved in the past few years.¹⁵⁰ By 1989, 44 percent of the Philippine national budget was going to service its foreign debt.¹⁵¹ The debt-servicing percentage for Malawi was 38 percent (after rescheduling).¹⁵² "Debt made the developing countries into net donors to the rich countries. Social spending was cut back in Africa and Latin America. Progress in education and health halted and reversed."¹⁵³ As Ben Jackson explains:

A debtor — whether an individual, company or country — gets into trouble when the difference between what they earn and the amount they have to repay on the debt (much of it just interest) becomes too great too quickly. This difference is known as the 'debt service ratio'. In the case of Third World countries, it is the amount of debt they repay each year in comparison with their earnings from trade, since only by exporting can they earn the hard currency, mainly US dollars, in which payments on foreign debts must be made.¹⁵⁴

Unfortunately, "[m]ost of the profits from commodity sales in the Third World go to retailers, middlemen, and shareholders in the First World. Only 15 percent of the \$200 billion in the annual sales of these commodities in rich countries winds up in the countries that grow them."¹⁵⁵ The result is that some poor countries of the South

146. UNICEF, *THE STATE OF THE WORLD'S CHILDREN*, (1989, 1990), cited in BEN JACKSON, *POVERTY AND THE PLANET*, 90 (1990).

147. Cited in JACKSON, *supra* note 145.

148. HARRISON, *supra* note 30, at 85.

149. *Id.*

150. JACKSON, *supra* note 145, at 91.

151. CALDICOTT, *supra* note 143, at 132-33.

152. JACKSON, *supra* note 145, at 91.

153. HARRISON, *supra* note 30, at 297.

154. JACKSON, *supra* note 145, at 93-94.

155. CALDICOTT, *supra* note 143, at 134.

wind up on a "debt treadmill."¹⁵⁶ Ben Jackson comments,

The combined effect is to bleed debtor economies dry. The debt crisis has changed the overall inflow of finance from rich countries to poor into a perverse and increasing flow from poor to rich. Third World debtors now transfer over \$50 billion a year more to Western banks and governments than they receive in new loans and aid. No other statistics could make a greater mockery of the rich world's idea of itself as a benefactor of the Third World.¹⁵⁷

So desperate are these poor nations to obtain foreign currency that they are compelled to trade their most marketable products, often at greatly reduced prices and regardless of the environmental destruction they are causing. Natural resources have to be exploited at a frantic pace to meet the debt service charges and in many Southern nations, "[e]nvironmental resources are being exhausted just to pay debt."¹⁵⁸ The Third World Network which is based in Malaysia has estimated that 27 of the countries endowed with rain forest resources are burdened with a collective debt to the North of \$630 billion.¹⁵⁹

What the South needs from the North is greater access to its vast consumer markets, debt relief, stabilization, even raising of commodity prices, improved access to international liquidity and aid for development.¹⁶⁰ The fact that so many developed countries have protectionist tariffs on imported manufactures encourages poorer Southern nations to concentrate on the production of raw materials which have easier access into Northern markets.¹⁶¹ The Centre for Science and Environment in India urges the North to

[g]ive the South a fair deal by reforming the world market system so that it can take into account the ecological costs of producing its commodities and the South will take care of its environment. These costs can be captured only through a series of fiscal and economic instruments as part of a deliberate public policy package.

The Centre then asks: "Are the rich prepared to pay the real costs of what they consume?"¹⁶²

Although the intensity of the debt crisis has been somewhat reduced, the consequences continue to haunt most nations of the South. Action taken by the Group of Seven (developed countries)

156. JACKSON, *supra* note 145, at 94.

157. *Id.*

158. *Id.*

159. GLOBE AND MAIL, May 2, 1992, at A7.

160. SOUTH CENTRE, *supra* note 25.

161. CALDICOTT, *supra* note 143, at 134-35.

162. CSE, *supra* note 131.

has resulted in the forgiving of more than \$5 billion worth of official development assistance loans.¹⁶³ In 1990 a debt restructuring agreement, known as the Brady Plan proposed a package of debt relief estimated to be worth about \$25 billion.¹⁶⁴ The aim of the Plan was to convert loans to grants.¹⁶⁵ However, the Plan has been criticized for being "too little, too late, in too few countries,"¹⁶⁶ and some nations like Mexico and the Philippines have simply defaulted on their payments.¹⁶⁷ The United Nations has estimated that a reduction of wealth transfer to the banks of about \$10 billion per year could result in some prospect of reaching a modest 2 percent growth rate.¹⁶⁸ If the debts of all African nations were forgiven, more than \$12 billion would be available for development and a better lifestyle for those people.¹⁶⁹ Canada authorized the conversions of loans to grants in 1987 and extended this assistance to a number of debt-plagued developing nations but on condition that they submit to supervision by the International Monetary Fund.¹⁷⁰ The following year, 1988, the Western Economic Summit "supported a menu of debt relief options that included grace periods, interest rate reductions, rescheduling, and actual debt reductions in a variety of combinations. All this is welcome but is subject to IMF agreements, country by country."¹⁷¹

For the nations of the South, submission to the International Monetary Fund is bitter medicine indeed. For many of these countries, the Fund and its sister organization, the World Bank, are "international lenders of last resort."¹⁷² The Washington-based World Bank is perceived by Southern nations to be run "by and for developed countries — in particular the United States,"¹⁷³ and to reflect American interests and policies.¹⁷⁴ As with many Southern perceptions, this one is somewhat simplistic, if not completely unjustified. In the developing world the entire Organization is simply termed the World Bank and derided accordingly although it has component institutions like the International Bank for Reconstruction and Development and the International Development Association,¹⁷⁵ as well as

163. GLOBE AND MAIL, August 17, 1992, at B9.

164. *Id.*

165. HEAD, *supra* note 65, at 69.

166. JACKSON, *supra* note 145, at 123.

167. GLOBE AND MAIL, August 17, 1992, at B1 and B9.

168. UNCTAD, *Trade and Development Report 1988*, Geneva, 1988, cited in JACKSON, *supra* note 145, at 124.

169. GLOBE AND MAIL, May 29, 1992, at A17.

170. HEAD, *supra* note 65, at 69.

171. *Id.*

172. GLOBE AND MAIL, August 17, 1992, at B9.

173. GLOBE AND MAIL, June 8, 1992, at A8.

174. *Id.*

175. Canadian International Development Agency, *Annual Report 46* (1989-90).

the International Finance Corporation¹⁷⁶ and the Global Environmental Facility.¹⁷⁷ The Bank has 159 member countries with the United States of America owning the largest block of shares.¹⁷⁸

The even more controversial International Monetary Fund was established in 1945 to oversee the world's monetary system and "to stop the financial sneezes of one country giving the whole world trade system a cold."¹⁷⁹ It has had a significant impact on the economic development of developing countries.¹⁸⁰ Unfortunately, these Northern institutions whose aim is to assist the developing world often wind up creating greater problems and exacerbating the North/South confrontation. As Caroline Thomas explains: "The IMF, as guardian of the post-war monetary order, has come to be seen by the developing world as an instrument of Western domination and as a violator of their sovereign rights."¹⁸¹ Thomas, who lectures at the University of Southampton continues:

The root of the problem is that the IMF, which exerts so much control over the economies of Third World states, was never conceived with them in mind. Nor for that matter was the international monetary system, of which it is the cornerstone. Thus Third World states attack the IMF both in general terms and on three specific issues.

Thomas believes that the IMF's political philosophy affects its "economic orthodoxy" which neglects the requirements of poor countries. Second, developing nations lack the ability adequately to influence decisions of the IMF. Most unpalatable of all are the stiff conditions imposed on recipients of IMF loans¹⁸².

When nations of the South are compelled to resort to the World Bank or to the International Monetary Fund, they are required to abide by very tough conditions specified by these institutions. The process by which this is implemented is via structural adjustment programs,¹⁸³ (in 1991 accounting for \$5.9 billion, approximately 26 percent of the Bank's commitments¹⁸⁴) which can result in draconian measures to "reduce public deficits, liberalize markets and often devalue . . . currencies In many cases . . . the immediate results include social service cuts, lower real wages and reduced subsidies for basic goods such as food and oil."¹⁸⁵ In an effort to assist

176. CHRISTIAN SCIENCE MONITOR, June 3, 1992, at 2.

177. GLOBE AND MAIL, June 2, 1992, at B24.

178. GLOBE AND MAIL, May 11, 1992, at A8.

179. JACKSON, *supra* note 145, at 106.

180. Canadian International Development Agency, *Sharing Our Future* 74 (Hull 1987).

181. CAROLINE THOMAS, IN SEARCH OF SECURITY, 39 (1987).

182. *Id.* at 40.

183. GLOBE AND MAIL, August 17, 1992, at B9.

184. GLOBE AND MAIL, May 29, 1992, at A17.

185. GLOBE AND MAIL, August 17, 1992, at B9.

debtor countries to promote exports, the IMF often urges currency devaluation as a drastic but necessary measure to jump-start the economy. Unfortunately devaluation does not always have the intended result because poor nations find it harder to pay for necessary imports and the increased volume of exports can turn into a glut which forces the price down. "Third World countries find themselves producing more and more for less and less."¹⁸⁶

Critics of the Bank assert that it is "undemocratic, unaccountable and unable to support sustainable development."¹⁸⁷ Although the Bank's primary activity of approving loans worth an estimated \$29 billion a year¹⁸⁸ would appear to be laudable, given the very real need for such funding in the developing nations, it has been accused of fostering economic activity at the expense of the environment. For example, the World Bank committed \$450 million to a major hydro-irrigation project in India (the Sardar Sarovar Project on the Narmada River) before an independent review suggested that the displacement of approximately 250,000 people by the construction of 165 large and medium size dams, 3000 small dams and 75,000 kilometres of canals had not been adequately assessed.¹⁸⁹ The Narmada project could create irrigation systems for 1.9 million hectares of land and produce 1450 megawatts of much-needed electric power.¹⁹⁰ However, international funding for such mega-projects in developing nations has produced a storm of environmental protest in both the developed and developing world. The complaints can be quite emotional: "Should you wish to reduce any well-informed environmentalist to tears, try a litany of bank-financed ecological disasters: Sardar Sarovar Dam, India; Pak Mun Dam, Thailand; Kedung Ombo Project, Indonesia; National Livestock Project, Botswana; Polonoreste and Grande Carajas, Brazil; the Tropical Forestry Action Plan, in many places. The list could be lengthened."¹⁹¹ The problem with such massive schemes is that they destroy as much as they build and increasingly, the populations of recipient nations are unwilling to accept the cost of such aid, even if their Governments encourage large development projects. In India, Medha Patkar, winner of the 1991 Right Livelihood Award for her activism, believes that her countrymen need "a development that is participatory and does not destroy the community or its resources."¹⁹² This idea is now gaining popularity in the developing world where environmental

186. JACKSON, *supra* note 145, at 67.

187. GLOBE AND MAIL, May 29, 1992, at A17.

188. GLOBE AND MAIL, May 11, 1992, at A8.

189. GLOBE AND MAIL, June 19, 1992, at A8 and June 15, 1992, at A8.

190. GLOBE AND MAIL, April 25, 1992, at A7.

191. GLOBE AND MAIL, May 29, 1992, at A17.

192. GLOBE AND MAIL, June 15, 1992, at A8.

groups are putting up a stiff resistance to developmental projects which endanger the environment. As a result of such pressure, Japan withdrew its financial support for the Narmada project.¹⁹³

The involvement of foreign financing has in the past led to a concentration on non-environmental considerations in judging the feasibility and success of these projects. Vice President Al Gore comments that

when the World Bank, the International Monetary Fund, regional development banks, and national lending authorities decide what kinds of loans and monetary assistance to give countries around the world, they base their decisions on how a loan might improve the recipients' economic performance. And for all these institutions, the single most important measure of progress in economic performance is the movement of GNP. For all practical purposes, GNP treats the rapid and reckless destruction of the environment as a good thing!¹⁹⁴

Commenting on IMF conditions on loans, President Nyerere of Tanzania commented that the IMF "has an ideology of economic and social development which it is trying to impose on poor countries irrespective of their own clearly stated policies."¹⁹⁵ Environmentalists in the West have been very vocal in their opposition to the Bank and the IMF. Helen Caldicott blames the World Bank for encouraging debtor nations to fell their rain forests.¹⁹⁶ Ben Jackson charges that "[u]nder 'adjustment with growth', debtors have done plenty of very painful adjusting, but only their debts, not their economies, have grown."¹⁹⁷

In the Bank's defence, it ought to be pointed out that its policies have changed. The Bank has for some years been sensitive to global criticism and to the environmental activism generated by its support for environmentally-destructive development projects. Although its agenda has been aimed at alleviating the problem of poverty, the Bank has had some misgivings about the extent of assistance to the poor generated by such programs.¹⁹⁸ Now, "after years of criticism from environmentalists, the bank has got religion and is preaching it with the fervour of the converted. Its projects are now subject to environmental assessments and it has created and expanded an environment department within itself."¹⁹⁹

193. GLOBE AND MAIL, April 25, 1992, at A7.

194. GORE, *supra* note 38, at 184-85.

195. THOMAS, *supra* note 181, at 54.

196. CALDICOTT, *supra* note 143, at 133.

197. JACKSON, *supra* note 145, at 110.

198. Gerald K. Helleiner, *Stabilization, Adjustment and the Poor*, in R.M. BIRD AND S. HORTON, *GOVERNMENT POLICY AND THE POOR IN DEVELOPING COUNTRIES*, 35 (1989).

199. GLOBE AND MAIL, May 18, 1992, at A7.

The Bank, in its 1992 Report on world development urges industrialized nations to contribute to the creation of a healthier planet. The Bank has attempted to clean up its image by projecting a greater environmental consciousness and now refuses to give financial assistance to logging in primary forest areas.²⁰⁰ Insisting that "[w]orld development is consistent with good environmental practices,"²⁰¹ the Bank, following policies enunciated in 1987, is demonstrating a new awareness of the human and environmental cost of large projects.²⁰² The Bank's priorities now include provision of clean drinking water, education for women²⁰³ and technology transfers to developing countries. The Bank has also joined forces with the United Nations Development Program and the United Nations Environment Program to assist in an experiment costing \$1.3 billion to fund environmental protection schemes.²⁰⁴

While all this sounds very positive, it has to be remembered that the Southern nations share a deep suspicion of the Bank and of the International Monetary Fund and time alone will tell whether this note of eco-sensitivity on the Bank's part will strike any responsive chord in the developing country recipients of foreign aid. Indeed, as environmentalism is regarded as a western, anti-development notion in many Southern countries, it is possible that the Bank's insistence on environmental assessments for aid projects may be perceived in the South as another facet of a western notion which results in an inclination to interfere with the political sovereignty of Southern nations. Eco-sensitivity may be condemned in the South as eco-imperialism. For the North, it will then be a case of being damned if you do and damned if you don't. Indeed, at a preliminary conference of developing nations in Malaysia, Third World countries formulated their joint initiatives for Rio and were in general agreement with the message of a Malaysian government documentary which urged that "UNCED must not herald the beginning of an era of eco-imperialism."²⁰⁵ It is entirely possible, given the diverse perspectives brought to the North-South dialogue, that the "introduction of the environment dimension into the development process"²⁰⁶ will heighten rather than reduce tension. The Southern governments are very conscious of their political independence and now, since the Earth Summit, of their collective responsibility to ensure that no Northern na-

200. GLOBE AND MAIL, June 2, 1992, at B26.

201. GLOBE AND MAIL, May 18, 1992, at A7.

202. GLOBE AND MAIL, June 2, 1992, at B26.

203. GLOBE AND MAIL, May 18, 1992, at A7.

204. GLOBE AND MAIL, June 2, 1992, at B26.

205. Stephen Bradshaw, B.B.C. News and Current Affairs (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

206. SOUTH CENTRE, *supra* note 25.

tions attempt imperial takeovers even under the guise of saving the planet. While we in the North may find this attitude quite exasperating, it has to be understood and possibly appreciated if we are to deal with the South in a positive manner. After all, the imperialists of the past ostensibly came to save the souls of the "heathen" and stayed to loot the economies of the colonies. In the Southern mind, there is not that much difference in the present message of saving the planet particularly when the resources of developing nations are labelled global resources and part of the inheritance of mankind. The very idealism of the Western environmentalists can appear to be crass materialism when the message is filtered through the Southern mind with its own frame of reference to past exploitation. When additionally, the nations of the North refuse to take drastic and significant steps to curb their own pollution — pollution which accounts for the majority of the environmental problems of this planet — and expect the South to remain poor so that the North can breathe purer air, the chasm between the two sides becomes even larger. International financial institutions like the World Bank walk a thin line as they attempt to cross the North-South divide, advancing aid carefully enough to meet the Northern, donor agenda without appearing to affront the nationalistic sensibilities of Southern recipient states. Further, if environmental concerns add to the level of hardship and to the number of conditions imposed on developing nations there might be a repetition in many poor countries of the riots related to IMF austerity measures which have occurred in the past. The 1981 riots in Morocco and unrest the following year in the Sudan are two examples.²⁰⁷

Given the negative perceptions about the World Bank it is not surprising that during the Rio negotiations, the developing nations resisted efforts to channel the North's funding of sustainable development projects through the Bank. As *The Times* (London) commented,

The poorer nations are suspicious of the World Bank, which they regard as a rich countries' institution, and have been demanding a new green fund, which they would control and to which the richer countries would contribute. That has been refused, and when talks on the climate change convention were successfully concluded they accepted the GEF [Global Environmental Facility] as the treaty's funding mechanism, atleast on an interim basis.²⁰⁸

In a very real sense it could also be argued that the South has

207. THOMAS, *supra* note 181, at 55.

208. THE TIMES (London), June 3, 1992, at 12.

few alternatives, given its present poverty, but to develop rapidly if its population is not to suffer total destruction. India, which is not by any means one of the most desperate of these poor nations still has compelling, urgent problems to resolve. To give only one example of the type of crisis such nations face, let us consider the electricity requirements for that nation of 850 million.²⁰⁹ In terms of its power requirements in the future, "[e]ven conservative forecasts put India on a collision course with chaos. Just to keep pace with its swelling population and new-found industrial growth,"²¹⁰ India will have to double its output of electricity.²¹¹ At the present time, despite the fact that with 16 percent of the world's people, it is the second most populated nation in the world (China ranks first), India consumes only 3 percent of the world's energy.²¹² By way of contrast, the United States of America, with 5 percent of the world's population manages to consume 25 percent of the world's energy.²¹³ The average Canadian consumes 50 times as much energy as the average Indian.²¹⁴ There can be no doubt that without rapid development India is heading down a road to economic disaster. This example of India's electricity requirements provides dramatic evidence of the type of dilemma and crisis situation facing leaders of many developing nations as they struggle against all types of obstacles in their attempt to improve the lives of their people.

Some Southern nations proceed rapidly along the path of development and appear not to heed the perils of environmental degradation which they are creating. China, with about one-fifth of the world's population,²¹⁵ is today regarded as "one of the world's fastest growing polluters."²¹⁶ Because China depends on coal to produce approximately 70 to 75 percent of its energy,²¹⁷ it manages to consume about 900 million tons of coal per year and this creates (by 1990 statistics) about 15 million tons of sulphur dioxide along with 20 million tonnes of coal dust.²¹⁸ In 1990 about 35.4 billion tons of waste water polluted China's rivers, ports and lakes and about "580 million tons of industrial solid waste was dumped."²¹⁹ This is even more serious a threat when it is realized that only 15 percent of

209. GLOBE AND MAIL, June 18, 1992, at A1.

210. GLOBE AND MAIL, April 25, 1992, at A7.

211. GLOBE AND MAIL, April 25, 1992, at A7.

212. TIME, June 1, 1992, at 23.

213. *Id.* at 22.

214. GLOBE AND MAIL, April 25, 1992, at A7.

215. Lester R. Brown, *Launching the Environmental Revolution*, STATE OF THE WORLD 1992, 180 (1992).

216. GLOBE AND MAIL, June 2, 1992, at A3.

217. GLOBE AND MAIL, June 2, 1992, at A3. *Also* THE TIMES (London), June 3, 1992, at 12.

218. GLOBE AND MAIL, June 2, 1992, at A3.

219. THE TIMES (London), June 3, 1992, at 12.

China's waste water is treated.²²⁰ Chinese pollutants are already causing acid rain in Japan,²²¹ and as China increases its energy consumption (expected to be sixfold in the next four decades²²²), its carbon emissions — now at 9 percent of the world's total²²³ — are likely to become a real health hazard for its population and for neighboring states. Beijing suffers from so much smog that on occasion it cannot even be seen by orbiting satellites.²²⁴

In China, only one person out of 74,000 enjoys the luxury of owning a car.²²⁵ However, "China has been adding over 600,000 vehicles a year in recent years."²²⁶ When the Chinese decide to trade in their 300 million bicycles²²⁷ for cars, the consequences in terms of air pollution and energy consumption will be extremely serious. The extent of sincere commitment by the Chinese Government to environmental protection of its own population can be gauged by the fact that "in a short-sighted approach to saving foreign exchange, China orders imported cars stripped of their catalytic converters."²²⁸ Even more potential danger to the environment springs from the determination of the developmentally-oriented Chinese Government to provide its people with refrigerators, upto an estimated 300 million.²²⁹ If the refrigerators utilize chlorofluorocarbons, as older models in the West did at one time, the impact on the delicate and now already damaged ozone layer protecting the Earth could be very serious.²³⁰ Although the United States has provided China with aid and advice to produce "environmentally safe refrigerators," there are no guarantees that such technology will be preferred.²³¹

The situation of China is compounded by the fact that its present geriatric leadership is propelling a rush to economic development to compensate its people in part for the lack of political freedom and human rights in that country. China's leaders are more than aware of the fact that the decline of communism in Eastern Europe puts them very much more on the defensive. Having survived the student demonstrations at Tiananmen Square in 1989 by brutally crushing the demand for democracy, the government hopes to woo its people economically while repressing them politically. It is questionable whether China's attempts to create a free market

220. HARRISON, *supra* note 30, at 197.

221. GLOBE AND MAIL, May 2, 1992, at A7.

222. GLOBE AND MAIL, May 2, 1992, at A7.

223. THE GLOBE AND MAIL, May 2, 1992, at A7.

224. NEWSWEEK, June 1, 1992, at 31.

225. CALDICOTT, *supra* note 143, at 30.

226. HARRISON, *supra* note 30, at 273.

227. CALDICOTT, *supra* note 143, at 30.

228. THE GLOBE AND MAIL, June 2, 1992, at A3.

229. Shannon Begley, *Is It Apocalypse Now*, NEWSWEEK, June 1, 1992, at 36.

230. *Id.* at 42.

231. *Id.*

within a rigid political straightjacket can succeed. As the present leadership watches totalitarianism wither away throughout the world, it plunges forward with almost reckless zeal into economic development to justify itself to its own population. Environmental concerns are of less significance to China than probably to any other developing nation. Although the Government claims to have spent \$2.9 billion on environmental protection between 1986 and 1989,²³² "China's economic revolution isn't likely to slow down out of environmental concerns."²³³

Of even greater concern is China's alleged involvement in the trafficking of cross border waste. Greenpeace has recently "disclosed that officials in Baltimore were negotiating with authorities in China for permission to dump tens of thousands of tons of municipal solid waste in Tibet. Nothing could be more cynical," suggests Vice President Al Gore and he continues,

The Tibetan people are powerless to prevent Chinese officials from destroying the ecology of their homeland because of China's armed subjugation of Tibet for the last forty years. But the shipment has not taken place, and the United States has not yet become heavily involved in cross-border waste trafficking.²³⁴

In the international forums where environmental matters are debated, China points with some justification to the extent of pollution caused by Western nations and refuses to curtail the exercise of its right to development.²³⁵ The Chinese, in the negotiations leading up to the Earth Summit, campaigned for emphatic developmental rights with a demand for payment by the North to limit environmental damage in the Southern nations.²³⁶ The Director of China's state administration of the environment, Qu Geping proposed shortly before the Earth Summit that the developed nations pay at least 20 percent of the estimated \$600 billion required for limitation of environmental damage.²³⁷ China's assertive position found support among Southern nations who firmly believe that those who created the environmental damage ought to pay to clean up the mess and that environmental concerns ought not to trample the desperate need for development in the South.

It would be presumptuous for us in the North to decry the concentration on immediate necessity by Southern economic planners. If

232. THE GLOBE AND MAIL, June 2, 1992, at A3.

233. *Id.* at A3.

234. GORE, *supra* note 38, at 155.

235. THE GLOBE AND MAIL, June 2, 1992, at A3 and THE TIMES (London), June 3, 1992, at 12.

236. THE TIMES, (London), June 3, 1992, at 12 and THE GLOBE AND MAIL, June 2, 1992, at A3.

237. THE TIMES (London), June 3, 1992, at 12.

we had millions of starving and under-nourished people and massive unemployment would we not put environmental concerns on the back-burner as we fight to save the human lives involved? Was the reluctance of the Bush administration to commit the United States to international Conventions on the Environment not partly a reflection of its perception that its priorities must rest with the major problem of a recession and the highest unemployment rate it had suffered in eight years? If we in the North are able to prioritize our development/environment concerns in this manner we ought not to resent the South for doing likewise, particularly when the dimensions of their problems are far greater and the need there far more compelling than that of any Northern nation. "To the North, the issue is environment, but to the poor countries of the South, it's development — their right to develop into prosperous modern economies without interference from the old imperial powers."²³⁸

Environmentalists in the North also decry the rush to development in the South as short-sighted and suggest that the pillage of resources in the forest will ultimately weaken the agricultural life style of the majority of Southern inhabitants as topsoil gets washed away once trees are felled, rivers become polluted with land run-off and rainfall decreases as trees disappear. Although all of this is true and Southern governments are more than aware of these consequences, they face the dilemma of coping with immediate crises even if the very solution — quick development — results in long-term problems. Nor can it be suggested that short-sightedness is a particularly Southern affliction. As Southern governmental leaders and environmental activists are quick to point out, the North has always been and continues to be short-sighted in its extravagant use of resources, its construction of pollution-causing industries and its consumer-oriented lifestyle. The short-sighted policies of the North which gave every encouragement to rampant development destroyed forests in North America and Europe, dramatically changed the world's climate, ripped a hole in the Earth's protective ozone layer, brought death to thousands of rivers and lakes and even now is killing life in the oceans of the world. Thus mutual recrimination continues as part of the North/South dialogue.

There are environmentalists in the North who have expressed sympathy with the circumstances facing Southern governments and the fact that some of these persons are in positions of influence offers some hope that in the future the chasm separating the rich and poor nations may be bridged by mutual understanding. Vice President Gore has stated that

238. Stephen Bradshaw, B.B.C. News and Current Affairs (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

[r]apid economic improvements represent a life-or-death imperative throughout the third World. Its people will not be denied that hope, no matter the environmental costs As a result, that choice must not be forced upon them. And from their point of view, why should they accept what we, manifestly, will not accept for ourselves? Who is so bold as to say that any developed nation is prepared to abandon industrial and economic growth? Who will proclaim that any wealthy nation will accept serious compromises in comfort levels for the sake of environmental balance?

Vice President Gore continues: "The industrial world must understand that the Third World does not have a choice of whether to develop economically."²³⁹

In a speech to dignitaries and delegates at the Earth Summit, renowned explorer Jacques Cousteau deplored the "new dictatorship of materialism" and warned that the planet was suffering because of "an interminable succession of absurdities imposed by the myopic logic of short-term thinking."²⁴⁰ To some extent this "myopia" is understandable as an attempt by some Northern governments, specifically that of the United States under George Bush, to adjust to an environmental agenda within the frame of reference long dictated by its own much-envied life-style. It would be political suicide for any American President to rush his nation to the level of economic and social sacrifice necessary if rapid advancement of sustainable development is to be accomplished in the nation. It is politically far safer to appear to be an environmental moderate and effect gradual change in the North while using one's international influence to pressure Southern nations to hasten their conversion to sustainable development. The Bush Administration made it very clear that "the American life-style is not up for negotiation."²⁴¹

However well this may have played domestically, the remark did nothing to endear George Bush to either the developing world or to environmentalists from the developed world. In view of the fact that the American lifestyle results in 22 to 23 percent of all the polluting CO₂ produced from this planet,²⁴² there was some justification for the criticism. The American stance at Rio was perceived as being assertively nationalistic and antagonistic to global concerns. Southern activists argued that if the "lifestyle" was so unassailable, then the obvious conclusion could only be that the developing countries would have to be content forever to remain in poverty in order to

239. GORE, *supra* note 38, at 279.

240. THE TIMES (London), June 6, 1992, at 10.

241. TIME, June 1, 1992, at 32.

242. TIME, June 1, 1992, at 22 and THE TIMES (London), June 1, 1992, at 12.

sustain and bear the consequences of that extravagant lifestyle. The Malaysian Prime Minister commented: "The rich talk of the sovereignty of the consumers and their right to their life-styles . . . they expect the poor peoples of the developing countries to stifle even their minute growth as if it will cost nothing."²⁴³ The South maintained that the consumer-oriented, market-dictated American lifestyle would have to be adjusted if the entire planet is to enjoy some form of sustainable development and to survive. As one Southern think tank asked: "Does anybody seriously believe that the earth can support everybody at the consumption level of an European or a North American?"²⁴⁴ Ironically, while condemning the lifestyle of North America and Europe, the governments of most developing countries have at the very least set their sights on some semblance of this lifestyle as a target and aim of development. And although public statements caution about the need to develop in an environmentally safe manner, the sheer pressures of such vast populations generate their own momentum, carrying governments forward in directions which are questionable in the short-term and extremely risky in the long-term.

V. Rio and the Right to Development

It is most regrettable that the nations of the world lost the opportunity presented at Rio and in the months of preparation leading up to the Earth Summit to expand their horizons beyond the confining and restrictive barriers of nationalism, political sovereignty and economic expediency. Rio needed a wider vision and it foundered badly on the limited perceptions the world leaders allowed themselves. It was as if they attended a great international gathering clinging tenaciously to limited national agendas, plans of containment which looked inward rather than far-reaching proposals to move the people of the world in a new direction. It is pointless to cast all the blame on President Bush, as indeed they did at Rio. The nations of the South came armed with their own agenda, a plan of action to make up for all the exploitation of the past even if this involved environmental degradation for the future. Instead of using their new unity as representatives of the majority of the world's population, the Southern leadership perceived Rio as a platform for trading insults and for gaining economic leverage against the North. The most vociferous of their advocates, the Malaysians championed proposals which would assist the South developmentally but resisted efforts to push through a treaty to protect the Earth's remaining for-

243. Dr. Mahathir Bin Mohamad, Speech at U.N.C.E.D., June 13, 1992.

244. CSE, *The CSE Statement on Global Environmental Democracy to be Submitted to the Forthcoming UN Conference on Environment and Development*, New Delhi, India.

ests. That Treaty, backed by the Americans also partly failed because the United States refused to sign the Bio-diversity Convention which gave some benefits to the South for the North's utilization of its vast genetic treasure. The Americans were apprehensive that the Bio-diversity Convention would impact detrimentally on their growing bio-technology industry which, they feel, ought to be in a position to utilize such diversity found anywhere without having to share the profits with the poor nations which are home to most of the world's remaining species.

An analysis of the Earth Summit demonstrates clearly that both North and South are eager to shelve the burden of environmental adjustment on each other. In fairness, it must be stated that not all nations of the North and South are as conscious of national interests as were the Americans and Malaysians at Rio. However, these two nations, one the world's only Superpower and its richest country, the other the most assertive advocate of the development-minded elements of the South, stand as two exemplars of the confrontation on which Rio faltered. In their dedication to the primacy of national self-interest over universal values and concerns they were very similar, albeit at opposite poles in the debates and negotiations which occurred. Rio reflected, in the words of one commentator, "a conflict between economics and ecology."²⁴⁵

Rio also demonstrated that the expansion of the protective umbrella of international environmental law requires the parallel creation of a new world economic order in which the gap between rich and poor is narrowed to enable sustainable development to occur in the poorer nations. The South and the North have to find environmentalism mutually beneficial, not only in the long-term but in the short-term immediate future of their populations. Ben Jackson has suggested that: "environmental destruction in the Third World cannot be prevented without challenging the economic and political pressures that underlie it: from unequal land distribution to international debt and unfair trade."²⁴⁶

The creation of law within the boundaries of any democratic nation usually occurs via the process of public consultation, active, vocal debate and eventually, compromise as legislators indulge in a series of give and take deals recognizing the primacy of one interest or another. The resulting legislation may not be perfect and may indeed be quite flawed by the spirit of compromise which led to its acceptance but each law marks a step forward in the enlarging sphere of legal protection which has become so fundamental a part of civilized free societies. The process of formulating international

245. TIME, June 1, 1992, at 32.

246. JACKSON, *supra* note 145, at 30.

law is somewhat similar but much more complicated as sovereign entities, nation states, undertake to restrict the exercise of that sovereignty for the good of all of humanity. The stakes are far higher in international law, the positions are therefore more rigidly upheld and very reluctantly relinquished. There is far more posturing by world leaders (especially at a Summit) because the entire world is watching. Frequently, the public rhetoric is more vehement than the private positions of these personalities. Surrounded by the glow of summitry which plays so well domestically, leaders espouse ideas which they know are probably slightly irresponsible but they act their role before the television cameras and gain either popularity or notoriety, depending on the audience. Soon, the Summit is over and the world turns its attention to another matter.

The Earth Summit at Rio foundered partially because leading players were not willing to acknowledge that "[e]conomic security today can become the very basis of ecological security tomorrow."²⁴⁷ Had there been an enthusiastic commitment by all the participants to create both a new world economic order and to chart a course in sustainable development for the entire planet, the future of all of mankind would have been brighter. Unfortunately, there was not the courage to seize the moment and effect dramatic change. As with many United Nations sessions, the negotiations became a process of wheeling and dealing which so watered down the resulting Treaties as to make them almost a mockery of the original vision which generated the Rio Summit. The Rio process resulted in five major documents, the effort to protect the world from global warming, popularly referred to as the Climate Treaty; a significant step to protect the Earth's genetic resource, popularly called the Bio-diversity Treaty; a statement of general principles on the twin concepts of environment and development called the Rio Declaration and a massive blueprint for mankind's future called Agenda 21. A non-binding statement on forestry was also formulated. Although the North had hoped for a Forestry Convention, this did not materialize. It would be worthwhile briefly to examine the Rio documents, especially the two main Conventions which were accepted and which are legally binding, and to assess these from the perspective of the South in order to appreciate how Southern priorities fared in the Rio negotiations.

On May 9, 1992, members of 143 nations agreed to a convention which would limit the amount of carbon dioxide and other greenhouse gases emitted into the world's atmosphere.²⁴⁸ This Treaty

247. CSE, *The CSE Statement on Global Environmental Democracy to be Submitted to the Forthcoming UN Conference on Environment and Development*, New Delhi, India.

248. CHRISTIAN SCIENCE MONITOR, June 2, 1992, at 10.

was signed with much pomp and ceremony by world leaders at the Rio Summit. Labelled both a "historic break-through" and a "sell-out"²⁴⁹ this Convention on Climate Change acknowledges "that change in the Earth's climate and its adverse effects are a common concern of humankind."²⁵⁰ In this Convention, the South won recognition of the fact that "the largest share of historical and current global emissions of greenhouse gases has originated in developed countries,"²⁵¹ an important admission on the part of the North. The Convention also concedes that environmental "standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries."²⁵² Linking environmental and developmental priorities, the Treaty affirms "that responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty."²⁵³ This linkage is pursued in Article 3.4: "The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change."²⁵⁴

Developing nations have in the initial body of principle in this Convention also sought protection against the imposition of environmental measures which may act to their detriment in the field of international trade.²⁵⁵ This issue is particularly important for countries like Malaysia, which during the Rio negotiations was active in defeating plans to introduce green labelling to enable consumers to avoid timber from rain forest sources. In defending their stance on this matter, the Malaysians argued that the West would resent it if developing nations attempted to label imports from the North on the basis of their ecological acceptability. "You won't like it," Dr. Lim Keng Yaik, Malaysian Minister of Primary Industries told B.B.C. Correspondent Stephen Bradshaw. To the Malaysian Government, such attempts at greenlabelling would establish a double standard.

249. THE TIMES (London), June 1, 1992, at 12.

250. United Nations Document, A/AC.237/18 (Part II)/Add.1, 15th May 1992. United Nations Framework Convention on Climate Change.

251. United Nations Document, A/AC.237/18 (Part II)/Add.1, 2.

252. United Nations Document, A/AC.237/18 (Part II)/Add.1, 2.

253. United Nations Document, A/AC.237/18 (Part II)/Add.1,3.

254. United Nations Document, A/AC.2237/18 (Part II)/Add.1,5.

255. United Nations Document, A/AC.237/18 (Part II)/Add.1,5. Art. 3.5.

Dr. Yaik termed the attempt "hypocrisy to the highest degree."²⁵⁶

The Convention on Climate Change calls on States Parties to "stabilize atmospheric concentrations of so-called 'greenhouse' gases at a level that would prevent dangerous human-induced changes in the global climate."²⁵⁷ The target is to reduce emissions to 1990 levels,²⁵⁸ hardly a major concession as this would probably only "reduce carbon dioxide emission by 11 percent by 2050."²⁵⁹ The lack in the Convention of firm timetables for implementing such reductions was largely because of the insistence of the Government of the United States.²⁶⁰ The United States emits about 22 to 23 percent of the world's CO₂, the largest percentage of any nation.²⁶¹ Sensing a threat to its industrial base, the United States "resisted the idea of any named target whatever,"²⁶² and was accused of having "watered down the summit's central global warming treaty."²⁶³ However, President Bush was not prepared to allow "the extremes of the environmental movement to shut down the US on science that may not be as perfected as we in the US could have it."²⁶⁴ The attempts by the American President to protect the economic interests of his nation were derided by environmentalists at Rio. Joshua Karliner, representing Greenpeace commented: "The climate control convention was supposed to be the jewel in the crown. Now it looks more like a rhinestone."²⁶⁵

The real gem in the Treaty, from the perspective of the South, was the financial commitment of developed nations to assist developing countries in their efforts to improve the environment. "Industrialized countries are required to help finance and provide technology to developing countries to meet general commitments."²⁶⁶ The Convention specifies that

The developed country Parties and other developed Parties . . . shall take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties, particularly developing country Parties to enable them to implement the pro-

256. Stephen Bradshaw Interview with Dr. Lim Keng Yaik, B.B.C. News and Current Affairs (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

257. Lewis, *supra* note 108.

258. U.N. Doc. A/AC.237/18 (Part II)/Add.1.7. Art.4.2 (b).

259. THE GLOBE AND MAIL, June 3, 1992, at A6.

260. THE GLOBE AND MAIL, June 3, 1992, at A6.

261. THE TIMES (London), June 1, 1992, at 12 and TIME, June 1, 1992, at 22.

262. THE TIMES (London), June 1, 1992, at 12.

263. THE TIMES, June 2, 1992, at 16.

264. *Id.*

265. CHRONICLE-HERALD, June 1, 1992, at A2.

266. Lewis, *supra* note 108, at 4.

visions of the Convention.²⁶⁷

This kind of provision reflects the agenda²⁶⁸ espoused by the South before and during the Rio Summit. It also demonstrates a recognition of the fact that the North has the means to save the Earth from further degradation if it can overcome its emphasis on its own economic self-interest for the larger global interest of all humankind. The South believes that it is time now for the North to pay for the costs of its consumption. Although the South shoulders the burden of economic debt, there has now to be a recognition and acceptance of the "environmental debt of the industrialised countries."²⁶⁹ The South is no longer willing to play the role of humble aid recipient. The mood and tone are now very different and quite assertive: "The South should not be again seen as holding out the begging bowl for 'new and additional resources' or calling for 'technology transfer'. The South should be demanding compensatory measures from the North for errant behaviour as a question of its right over global resources."²⁷⁰

Even though the South gained the right to acquisition of environmental technology, it was compelled to concede on the issue of the handling of the financial provisions of the Convention. The North was anxious to retain the services of the Global Environment Facility, a financing agency controlled by the United Nations and the World Bank.²⁷¹ "The Agency's four priority areas are: ozone depletion, global warming, the preservation of biological diversity and international water management. The first three are covered by international treaties that require rich countries to help the poor. The GEF is the conduit for the aid."²⁷² Because at the present time the nations of the North control the GEF, they feel more secure in utilizing that institution for the disbursement of the aid to which they have committed themselves in the Climate Convention. The South resisted that approach, perceiving the North-controlled and North-dominated World Bank as "detrimental to the interests of the South"²⁷³ in terms of its autonomy and national sovereignty. It was also pointed out that "the World Bank has no lever on the policies of the countries of the North, which aggravates the imbalance in North-South relations."²⁷⁴ The eventual compromise instituted the Global Environment Facility, the United Nations Environment Pro-

267. U.N. Doc. A/AC.237/18 (Part II)/Add.1.9. Art.4.5

268. See generally CSE, *supra* note 99.

269. *Id.*

270. *Id.*

271. THE GLOBE AND MAIL, June 8, 1992, at A8.

272. THE GLOBE AND MAIL, June 8, 1992, at A8.

273. SOUTH CENTRE, *supra* note 25.

274. *Id.*

gramme and the International Bank for Reconstruction and Development as the entity to operate the financial mechanisms of the Convention on an interim basis. Provision was made to restructure the Global Environment Facility to make its membership "universal".²⁷⁵ In an Editorial, *The Times* (London) lamented this realignment of the power structure in the GEF commenting that the institution would "rapidly become unworkable."²⁷⁶ Whether or not this expanded international financial facility will be perceived in the South more positively than the World Bank and its affiliates have been in the past remains to be seen. By linking the right to development and the right to a clean environment, the Climate Change Convention could be considered a victory for Southern moderates who have now at least obtained international recognition of the interdependence of these two human rights and of the mutual obligation of the rich and poor nations — the North and the South — to act together in implementing them.

The widespread global acceptance of the weakened Climate Change Convention was not matched by equal success in the other major formulation produced for signature at Rio. The Bio-diversity Convention foundered on the rock of United States resistance and eventual refusal to sign. Although numerous countries have accepted the Treaty and have become Parties to it, the most important nation in the world in terms of its leadership in bio-technology refused to accept the terms of the Convention. The absence of the United States renders the Treaty's worth somewhat questionable in view of the fact that without American participation, the moves to protect the genetic treasure of the world become largely meaningless. The North-South bickering over bio-diversity was more intense and more acrimonious. Having conceded, they felt, far too much in the Climate Convention to gain American adherence, the South dug in its heels and refused to water down the Bio-diversity Treaty to meet American requirements. The Southern view was expressed by environmentalist Vandana Shiva who argued that "[m]ost of the bio-diversity exists in the South. Two-thirds of it exists in the South. It is a Third World resource. By calling it a global resource, by calling it a common heritage of mankind, the North is basically preparing the ground to assure raw material supply for the emerging biotechnology industry which needs this diversity as input. Basically, behind the bio-diversity conflicts is a conflict over who will control this future raw material and whether that bio-diversity will be able to sustain life in the Third World or it will only sustain profits for North-

275. U.N. Doc. A/AC.237/18 (Part II)/Add.1,21. Art.21.3.

276. *THE TIMES* (London), June 3, 1992, at 15.

ern corporations."²⁷⁷ It could be argued that for the South there was far more at stake in this Treaty. It owns the resource and wants to ensure that future exploitation will result in a shared profit between the bio-technological companies, largely in the North (the United States of America leads in this field) and the Governments of the South who, in return for a share of the profits, can undertake to conserve the forests and preserve the thousands of species which may in the future provide new medicines, cosmetics and innumerable other products. Thus far, such genetic species have been exploited without much thought of compensation to the country of origin.²⁷⁸ In essence,

the treaty reflects an attempt to reconcile the goal of preserving species and ecosystems with that of economic development and reduction of poverty. Under the treaty's provisions, nations that ratify it would set up protected areas, promote the preservation of ecosystems and species and restore damaged ecosystems. They would also try to integrate conservation into their economic planning and development, permitting what would be deemed as friendly exploitation of forests for medical resources, food and tourism.²⁷⁹

The great achievement of the Convention according to India's delegate Avani Vaish "is that the value of genetic resources will be really appreciated. Resources were a free commodity, like air and water." Now, he added, the Treaty brings them "under international jurisdiction."²⁸⁰

The Treaty affirms "that the conservation of biological diversity is a common concern of humankind," while also reaffirming "that States have sovereign rights over their own biological resources."²⁸¹ The South gained recognition first, of its need for additional financial resources and access to technology,²⁸² second, of the fact that "economic and social development and poverty eradication are the first and overriding priorities of developing countries,"²⁸³ and third, of the objective of "fair and equitable sharing of the benefits arising out of the utilization of genetic resources."²⁸⁴ The Convention recognizes "the sovereign rights of States over their natural resources," and concedes that "the authority to determine access to genetic re-

277. Interview with Vandana Shiva, B.B.C. News and Current Affairs (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

278. CHRISTIAN SCIENCE MONITOR, May 26, 1992, at 3.

279. William K. Stevens, *To U.S., Treaty's Flaws Outweigh Its Benefits*, N.Y. TIMES, June 6, 1992, at 6:3.

280. CHRISTIAN SCIENCE MONITOR, May 26, 1992, at 3.

281. U.N. Doc. *Convention on Biological Diversity*, June 5, 1992, Preamble.

282. *Id.*

283. *Id.*

284. *Id.*

sources rests with the national governments and is subject to national legislation."²⁸⁵ The Contracting Parties agree to share "in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms."²⁸⁶ The Southern delegates believed that they had adequately addressed American business apprehensions concerning patent rights for biotechnological innovations. Article 16.2 provides for:

[a]ccess to and transfer of technology. . .to developing countries . . . under fair and most favourable terms, including on concessional and preferential terms where mutually agreed In the case of technology subject to patents and other intellectual property rights, such access and transfer shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights.²⁸⁷

According to the *Economist*, the United States administration did not approve of the provisions on intellectual property rights: "The Administration argues . . . that the treaty is hostile to intellectual property rights."²⁸⁸ The Americans can point with some degree of justification to the problems and conflicts which could arise with respect to Article 16.5 of the Convention:

The Contracting Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of this Convention, shall cooperate in this regard subject to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to its objectives.²⁸⁹

One of the unfortunate aspects of this North-South confrontation concerns the fact that what may appear as the ultimate in reasonableness to one side can be perceived as totally outrageous by the other. The financial provisions of the Convention on Biological Diversity provide a case in point of this chasm in mutual understanding which exists. Having very little leverage in the rich-poor nation debate which underlies all these environmental/developmental negotiations, the South has no option but to focus continually on the few advantages that it does possess. Because most of the bio-diversity exists in the South and because its utilization and exploitation will be predominantly carried out in the North, the South sees this as an

285. *Id.*

286. *Id.* at Art. 15.7.

287. *Id.* at 9-10, Art. 16.2.

288. *ECONOMIST*, June 13, 1992, at 94.

289. U.N. Doc. *Convention on Biological Diversity*, June 5, 1992, at 10. Art.16.5.

opportunity to ensure that the North is made to pay as much as possible for use of the "genetic treasure trove."²⁹⁰ The urgency of the situation has been highlighted by environmentalists around the world. It has been suggested that approximately 100 species of life are disappearing every day,²⁹¹ largely as a result of human activity. Having for once a coherent and unified agenda to protect its own rights, the South worked hard to ensure that the Convention would not be so weak that future use of the bio-diversity would continue as at present with virtually no payment to or even credit given to the country of origin of the species. In a sense, this was an attempt to establish that biological species have a national affiliation which has to be recognized in international law. This was the crucial concept which the Americans were unwilling to recognize and certainly unwilling to acknowledge with payment to the originating country. The Southern point of view with respect to intellectual property rights was ably expressed by the Centre for Science and Environment in India: "We have seen that once property rights have been created in favour of companies, the governments of the North plead that there is no way that they can interfere with private sector interest when it comes to issues like a call for technology transfer. Yet there are no such qualms when it comes to demanding free access to the property of the South's farmers and tribals. In the negotiations for a bio-diversity convention, these double standards are writ large and the high sounding plea of the common heritage of humankind is a rhetorical device to disguise the continued exploitation of the poorer countries and their farmers."²⁹²

Regarding the financial provisions of the Convention, *The Times* (London) was scathing in its condemnation: "A sensible principle that poor countries should be rewarded for protecting species has been turned into a binding obligation on the West to provide a grandiose, multi-course free lunch."²⁹³ Article 20.2 of the Convention states that "[t]he developed country Parties shall provide new and additional financial resources to enable developing country Parties to meet the agreed full incremental costs to them of implementing measures which fulfil the obligations of this Convention."²⁹⁴ The Treaty strongly favors the position of the South in specifying as well that

[t]he extent to which developing country Parties will effectively implement their commitments under this Convention will de-

290. Stephen Bradshaw. B.B.C. News and Current Affairs (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

291. CHRISTIAN SCIENCE MONITOR, May 26, 1992, at 3.

292. CSE, *supra* note 99.

293. THE TIMES (London), June 3, 1992, at 15.

294. U.N. Doc. *Convention on Biological Diversity*, June 5, 1992, 11. Art.20.2.

pend on the effective implementation by developed country Parties of their commitments under this Convention related to financial resources and transfer of technology and will take fully into account the fact that economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties.²⁹⁵

Developed nations like Britain and Japan were also concerned about the financial provisions of this Convention.²⁹⁶ Despite serious misgivings, many nations signed the Convention preferring to participate and work for change within the structure rather than remaining isolated like the United States of America and being unable to affect future decisions. The financial measures which were woven into both Conventions signed at Rio reflect an attempt by the South to bring about some form of economic restructuring and greater fairness in the distribution of economic benefits in the world.

The South argues that if the North wants environmental protection, then it must be prepared to pay for it because it is the greatest polluter in the world and because its present messianic fervor for the environment must not be exercised at the cost of Southern development. The South believes that it paid and paid dearly for the North's industrialization. It can no longer afford to keep subsidizing the North and refuses now to do so. Hence, the financial measures in the Biological Diversity Convention, measures which were so upsetting to developed nations, appear to the South as nothing more than a reasonable and very moderate beginning in the process of creating a new economic world order in which mutuality of benefit rather than exploitation prevails. Such provisions also reflect the reality of increasing poverty in the South and an unwillingness to continue the downward spiral of life there. Canada's Environment Minister, Jean Charest commented on the relation between poverty and environmental degradation: "In the past 30 years," he said, "income disparities between the North and South have grown from 20 times to 60 times. This trend is simply not sustainable."²⁹⁷ Canadian Prime Minister Brian Mulroney undertook to ensure that Canada would rapidly ratify both the Climate Change Convention and the Biological Diversity Convention.²⁹⁸ What is being derided by some as a "squiffy little treaty,"²⁹⁹ is obviously considered by others as a significant step forward in a more equitable sharing of the world's wealth. Dr. Mostafa K. Tolba, Executive Director of the United Nations En-

295. *Id.*

296. *ECONOMIST*, June 13, 1992, at 94.

297. *THE GLOBE AND MAIL*, June 12, 1992, at A4.

298. Brian Mulroney, Address at the Earth Summit, Rio de Janeiro, Brazil, June 12, 1992.

299. *ECONOMIST*, June 13, 1992, at 93.

vironment Program commented that “[t]here will be those who will say the convention is too weak, barely addressing the magnitude of the threat to the global web of life.” But, he continued, “the process of international environmental law requires us, for better or for worse, to walk before we can run and to crawl before we walk.”³⁰⁰ One can only agree with the assessment of *The Times* (London) that “imperfect as the two treaties are, it is important that they are signed. They are markers on the way to more careful, and more equally shared, custodianship of the planet. Even weakened conventions can lead to stronger ones. North and South have here the basis of real bargains.”³⁰¹

The visionary who has guided the concept of Rio and who worked strenuously to bring about an international conference to confront and tackle the twin goals of development and environment is Canadian businessman and environmentalist Maurice Strong. The son of a railway worker from Manitoba, Canada, Strong made his fortune in oil and has devoted several years to national and international public service, first as chief of Canada’s foreign aid program. He was then appointed Secretary-General of the first United Nations environmental conference at Stockholm (1972).³⁰² Although the Stockholm Conference brought world attention to environmental matters, that meeting “fell short in practice.”³⁰³ A “self-made humanist or a practical humanist,”³⁰⁴ Strong has focused his international efforts on bridging the gap between North and South because “he has seen the environmental crisis in a larger context of rich and poor or developed and developing countries.”³⁰⁵ Strong is firmly committed to the need for all the nations of the world to convert their economies to environmentally friendly paths,³⁰⁶ and his aspirations for Rio were to create the political formulations and the financial mechanisms to enable and encourage both developed and developing nations to achieve that goal. Strong insists that “[w]e have to rise above our . . . differences and forge a new global partnership that will ensure the future of our planet as a secure and hospitable home for all of us rich and poor.”³⁰⁷ Strong believes that the Stockholm Conference faltered “because it did not answer the question of how the world’s poorest countries would pay for reform.”³⁰⁸ This question

300. William K. Stevens, *Striving for Balance*, N.Y. TIMES, May 24, 1992, at 8.

301. THE TIMES (London), June 1, 1992, at 15.

302. THE TIMES (London), June 3, 1992, at 12.

303. THE GLOBE AND MAIL, May 2, 1992, at A7.

304. WORLD MONITOR, June 1992, 32.

305. *Id.*

306. THE TIMES (London), June 3, 1992, at 12.

307. Interview with Maurice Strong, B.B.C. News and Current Affairs (Canadian Broadcasting Corporation’s News Network television broadcast, June 1992).

308. THE GLOBE AND MAIL, May 2, 1992, at A7.

was answered, at least to the partial satisfaction of the South in the main Rio Treaties. How far the Northern nations will act to implement the financial commitments entered into at Rio remains to be seen. Certainly, Strong's vision "of building a world consensus on making economic development environmentally sustainable,"³⁰⁹ was somewhat fulfilled in the statement of principles known as the Rio Declaration.

In an effort to "set benchmarks for environmental rights and responsibilities,"³¹⁰ Canada and other developed nations attempted to create an Earth Charter which would emphasize environmental concerns. The Charter was opposed by many developing countries³¹¹ who favored a statement emphasizing developmental priorities. The negotiations were intense, even though everyone knew the resulting compromise would not be legally binding. As one Canadian advisor commented: "the visionaries came up against the lawyers and bureaucrats and the lawyers and bureaucrats won."³¹² What has emerged is a rather vague series of 27 principles which fulfils to a considerable extent the Southern agenda but which fails to chart with sufficient firmness any innovative directions for the entire planet.

The Rio Declaration affirms the sovereign right of States "exploit their own resources pursuant to their own environmental and developmental policies;" (Principle 2) insists that "[t]he right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations;" (Principle 3) acknowledges the significance of environmental protection in the achievement of sustainable development;(Principle 4) urges "[a]ll States and all people" to cooperate "in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living"(Principle 5) and prioritizes the special needs of developing countries(Principle 6). The Declaration calls on States to reduce and eliminate unsustainable patterns of production and consumption (Principle 8). The South also won its point in the acknowledgment by the developed countries of "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." (Principle 7) Various activities are recommended including exchanges of scientific

309. Paul Lewis, *Rio Planner: A Magnate Who Mediates*, N.Y. TIMES, June 4, 1992, at A10:2.

310. THE GLOBE AND MAIL, June 2, 1992, at 1.

311. *Id.*

312. *Id.* at A3:4.

and technological knowledge (Principle 9), encouragement of public awareness (Principle 10), passage of environmental legislation at the national level (Principle 11), payment of compensation for victims of environmental damage (Principle 13) and prevention of cross-border movement of harmful substances (Principle 14). With respect to the establishment of environmental standards, the South scored again with the inclusion of this wording: "Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries" (Principle 11). The Southern governments are also concerned that the North's emphasis on environmentalism may result in restrictions being placed on the importation of Southern products which are environmentally not acceptable. Accordingly, this wording in Principle 12: "Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade."³¹³ Clearly, the Declaration caters largely to the requirements and agenda of those Southern governments which came to the Rio process determined to stress the primacy of development over the necessity for environmental protection. To round off the body of principle, there were rather vague concessions made to the significance of women (Principle 20), youth (Principle 21) and indigenous people (Principle 22). As a formulation of proposals for future action it fails to meet the test of balance between developmental and environmental concerns and although it was universally accepted on June 11, 1992 at the Summit, this easy passage at the end was largely because the document is not legally binding.³¹⁴

Agenda 21, massive and not legally binding "became the main forum for North-South wrangling on every topic imaginable, including the spread of deserts, disposal of toxic wastes and protection of women's rights."³¹⁵ This "blueprint for global environmental protection"³¹⁶ has been accused of being yet one more example of "unsurpassed UN verbosity,"³¹⁷ with its inevitable demands for more funding (approximately \$125 billion a year from developed countries for implementation³¹⁸). According to Maurice Strong, "[f]inance has the capacity to make or break" the ambitious goals of Agenda 21.³¹⁹ The total annual cost for North and South would be a staggering

313. U.N. Doc. A/CONF.151/5/Rev.1. *The Rio Declaration on Environment and Development*, June 13, 1992.

314. THE TIMES, (London), June 12, 1992, at 1.

315. TIME, June 1, 1992, at 29:1.

316. Steven Greenhouse, *A Closer Look; Ecology, The Economy and Bush*, N.Y. TIMES, June 14, 1992.

317. THE TIMES (London), June 1, 1992, at 15.

318. THE TIMES, June 9, 1992, at 27.

319. THE GLOBE AND MAIL, May 2, 1992, at A7.

\$625 billion.³²⁰ The problem is that although it deals with a number of pertinent and pressing concerns, it does not do so in any dramatic new context in terms of economic distribution between rich and poor nations.³²¹ Possibly, that was too daunting a task even to contemplate, but without some restructuring of the way wealth moves between nations, there will probably be no implementation of its grand schemes, no matter how laudable the ideas may be and the world will continue in its present course heading down the path of environmental destruction. During the Rio process, the developing nations were firm in their insistence that the North must assist the South in its efforts to implement Agenda 21. As Jamsheed A. Marker, Pakistan's Representative to the United Nations, commented: "We are saying we cannot generate the new resources needed to start up Agenda 21 without new help, so if the North wants us to meet those goals they must treat us more generously."³²²

In stressing the primacy of Southern self-interest, the developing nations of the world also combined to scuttle plans for a Treaty to protect the world's forests. Perceiving this as a direct assault on their political sovereignty, some nations of the South resisted any such notion of a Forestry Convention because, as they argued, it could be one method of converting their forests into a global as against a national resource. The "vehement opposition of developing countries" arose because for them

forests are a major economic asset. These countries assert that while they believe in protecting forests, they are theirs to do with as they please . . . they bridle at what they see as an attempt to abridge their sovereignty by countries that long ago cut down their own trees for profit but now want to place the main burden of global forest conservation on countries struggling for economic survival.³²³

India's Environment Minister, Kamal Nath made it clear that his nation would oppose a forest treaty because forests are no more a global issue than is another vital resource, oil.³²⁴ India was accused of being "the most intransigent of the developing countries."³²⁵ Malaysian Prime Minister, Dr. Mahathir Bin Mohamad dismissed the idea of a forestry convention: "We know that a forestry convention is about forests which are there. Since most of the countries who are

320. *Id.*

321. THE GLOBE AND MAIL, June 15, 1992, at A8.

322. William K. Stevens, *The Earth Summit: Lessons of Rio: A New Prominence and an Effective Blandness*, N.Y. TIMES, June 14, 1992, at 10.

323. N.Y. TIMES, June 7, 1992.

324. William K. Stevens, *Bush Plan to Save Forests is Blocked by Poor Countries*, N.Y. TIMES, June 9, 1992, at A8.

325. THE GLOBE AND MAIL, June 10, 1992, at A6.

going to participate do not have any forests, they are going to talk about OUR forests, not THEIR forests. It's a waste of time for us."³²⁶ The extent of their resistance may also have been dictated by the fact that the Treaty on Forests was actively propagated by the Americans, the same Americans who had, according to the South, weakened the Climate Change Treaty, rejected the Bio-diversity Convention and generally done their utmost to stress the primacy of American self-interest during the Rio process. The extent of Southern suspicion can be gauged by the remarks of Malaysian Ambassador Ting Wen Lian who considered "the almost obsessional anxiety to have a forest convention" a reflection of the attempt by developed countries "to appease their public opinion and thus get electoral mileage out of forests."³²⁷ The initial proposal by the United States was for a ban on logging in tropical forests.³²⁸ When developing nations demanded that Northern forests be included, it was clear that the prospects for success were doomed. The United States of America "has strenuously resisted any scrutiny of the logging practices in publicly owned ancient forests in the Pacific Northwest."³²⁹ The North-South rift rendered a binding Treaty on forests out of the question and this will undoubtedly be deemed a costly failure in years to come. In their intense concentration on development, Southern nations are at times inclined to over-look the fact that forest protection is in their own ultimate self-interest as well as that of the North. Once the forests are destroyed the consequences for Southern economies will be very serious indeed. One has only to look at the devastation that forest destruction has brought to the Philippines to get an idea of the likely result which could face other nations in coming decades.

Having failed to gain a legally binding Treaty, the United States and its supporters pushed for the adoption of a non-binding agreement to be followed by a Treaty at some future date.³³⁰ There was so much hostility to the United States Government at Rio that even its good intentions came under suspicion from the South. Diplomats from developing nations were convinced that the American Government's anxiety to conserve the rain forests was to utilize the resource as a carbon dioxide sink so that "the US will not have to join other developed countries in setting timetables to reduce its own emissions of greenhouse gases."³³¹

326. Interview with Dr. Mahathir Bin Mohamad, B.B.C. News and Current Affairs (Canadian Broadcasting Corporation's News Network television broadcast, June 1992).

327. Stevens, *supra* note 110.

328. TIME, June 1, 1992, at 25.

329. *Id.*

330. Stevens, *supra* note 324.

331. IRISH TIMES, June 11, 1992, at 7.

The South's opinion was explained by environmentalist Anthony Juniper: "[t]he Americans are keen on a forest convention because they would not have to do much, whereas with strong climate change and bio-diversity treaties their commitments would have been considerable."³³² The American President offered \$150 million a year for forest conservation³³³ Although some developing countries expressed an interest in receiving the funds,³³⁴ this was not sufficient inducement to convince them to support a Treaty which would be legally binding. According to *The New York Times*, "[a]n American official said that those countries that supported the United States in pushing for a full declaration of principles on forests at the Rio conference would receive special consideration in the distribution of the American aid."³³⁵ But the carrot of funding only resulted in what was titled a *Non-legally binding authoritative statement of principles for a global consensus on the management, conservation and sustainable development of all types of forests*.³³⁶

In its preamble, this forestry statement acknowledged that "[t]he subject of forests is related to the entire range of environmental and development issues and opportunities, including the right to socio-economic development on a sustainable basis,"³³⁷ a clear concession to the Southern position. The agreement covers forests in all geographic regions,³³⁸ thereby overcoming Southern objections to any emphasis on tropical forests. The signatories acknowledge that "Forests are essential to economic development and the maintenance of all forms of life."³³⁹ It calls for sustainable management of forest resources "to meet the social, economic, ecological, cultural and spiritual human needs of present and future generations. These needs are for forest products and services, such as wood and wood products, water, food, fodder, medicine, fuel, shelter, employment, recreation, habitats for wildlife, landscape diversity, carbon sinks and reservoirs, and for other forest products."³⁴⁰ It calls for support of the rights of indigenous people and promotion of the participation of women in forest management.³⁴¹

Although the United States balked at the threat it perceived to the interest of its important bio-technology industry in the legally binding Bio-diversity Convention, Southern interests were stated

332. THE TIMES (London), June 2, 1992, at 10.

333. THE TIMES (London), June 2, 1992, at 1.

334. Stevens, *supra* note 324.

335. *Id.*

336. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992.

337. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Preamble (a).

338. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Preamble (e).

339. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Preamble (g).

340. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Article 2(b).

341. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Articles 5(a) and 5(b).

very clearly in the forestry agreement: "Access to biological resources, including genetic material, shall be with due regard to the sovereign rights of the countries where the forests are located and to the sharing on mutually agreed terms of technology and profits from biotechnology products that are derived from these resources."³⁴² It will be interesting to see how the United States and the developing nations undertake to implement these commitments which, though they may not be legally binding, do carry moral weight and may well have tremendous influence in any future formulation of an actual Forest Convention. Indeed, it could be argued that the Forestry Agreement was probably the most progressive of the Rio documents in terms of its recognition of the dire necessity to create a new world economic order. The Agreement highlights the importance of "the eradication of poverty and the promotion of food security;"³⁴³ the stimulation of "economic and social substitution activities" which would inevitably conserve forests;³⁴⁴ the provision of "international financial and technical cooperation, including through the private sector, where appropriate;"³⁴⁵ the contribution of financial assistance for "afforestation, reforestation and combating deforestation and forest and land degradation;"³⁴⁶ the transfer of environmental technology "including on concessional and preferential terms;"³⁴⁷ and removal of tariff barriers and encouragement to the sale of forest products processed in developing countries.³⁴⁸ This Agreement even stresses the "importance of redressing external indebtedness, particularly where aggravated by the net transfer of resources to developed countries,"³⁴⁹ and maintains that "[f]orest conservation and sustainable development policies should be integrated with economic, trade and other relevant policies."³⁵⁰

The provisions of the Forestry Agreement presage a new approach in the search for greater economic equity and stability for the developing world. It is unfortunate that the Southern emphasis on the sovereignty issue blinded the developing world to the very important concessions that the Northern States are prepared to make in return for forest conservation by the South. In scuttling the Forestry Convention because it was perceived as an attack on national ownership rights, the South may have sacrificed an important tool which could have ensured the survival of the forest for decades to come and

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342. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Article 8(g).
 343. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Art. 7(a).
 344. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Art. 7(b).
 345. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Art. 8(c).
 346. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Art. 10.
 347. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Art. 11.
 348. U.N. Doc. A/CONF. 151/6/Rev.1, June 13, 1992, Art. 13(b).
 349. U.N. Doc. A/CONF. 151/6/Rev.1, June 13, 1992, Art. 9(a).
 350. U.N. Doc. A/CONF.151/6/Rev.1, June 13, 1992, Art. 13(d).

the continuation of its benefits for Southern and Northern societies alike. It was obvious as early as April 1992 that the developing world would dismiss the idea of a binding forestry convention. At the second Ministerial Conference of Developing Countries on Environment and Development held between April 26 and 29, 1992 in Kuala Lumpur (Malaysia), the final agreed statement of the participants stressed the national nature of the forest resource and specified that in view of the formulation of the non-binding forestry statement, "the negotiations of a legally binding instrument on forest would not be required."³⁵¹ Inevitably, a binding agreement may not have been as idealistic as is this Statement but hopefully, both Northern and Southern states can work on the progress already made to formulate a set of principles which will expand the parameters of international environmental law for the betterment of all the people of this planet. Time alone will tell whether the two sides will be able to subsume their local self-interest in the larger cause of saving the Earth for future generations.

The basic problem facing all nations which participated in the Earth Summit was the question of funding. The North, ravaged by one of the worst recessions in decades, found itself virtually under siege by the South demanding money in return for exercising environmentally safe development. As one commentator stated, "one of the real issues facing UNCED is whether money can purchase the Earth."³⁵² The North also faces additional pressure from the new democratic states of Eastern Europe which are as demanding of Western funding as is the South. It is likely to be quite impossible for the North to provide the poorer nations with the additional \$125 billion the latter will need to implement the visionary goals of Agenda 21.³⁵³ If drastic steps are not soon taken to rectify and possibly reverse the huge outflow of annual resources from South to North, the poverty, desperation and environmental destruction in the South will doubtless become even more serious. Unfortunately Southern governments refuse to appreciate the fact that tax-paying citizens of Northern nations do not represent a bottomless pool of wealth to be tapped by their governments at will. In developed nations like Canada, public complaints about taxation have already made deep inroads into the spectrum of popular support which swept Prime Minister Brian Mulroney to power a few years ago. Most developed nations face staggering deficits of their own and experience constant cut-backs in vital education, health and welfare programs

351. Kuala Lumpur Declaration on Environment and Development, SMCED/MC/DOC.2, April 26-29, 1992.

352. IRISH TIMES, June 9, 1992, at 8.

353. *Id.*

which form the safety net for the most vulnerable of their citizens. While no one denies that people in the North are generally much better off than those in the South, part of the North-South misunderstanding arises because of the inability of the Southern governments to appreciate the dilemma facing Northern governments who find national and international demands for funding increasing at the very moment when their monetary resources are decreasing. It was a regrettable error by the North not to explain itself more fully during the Rio process and it was equally regrettable that the South was apparently not really willing to accommodate to the new reality of a recessionary North which faces serious economic problems of its own. What the South needed from the Rio process was a new bargain, a new economic restructuring of the world's wealth so that all could benefit. What it got instead was another round of handouts. The result is that the same system which has driven the major part of the world to debt and near bankruptcy will continue and the future appears rather bleak. The Treaties and Agreements formulated during the Rio negotiations were ultimately so watered-down because of the North-South divide that they will only be perceived as being significant landmarks if they lead to stronger conventions in the future. Nevertheless an optimist would argue that we now have a legally binding Treaty on Climate Change and another legally binding Treaty on Bio-diversity. The world also has a framework of principles on development, the environment and on the preservation of the forests which could chart a course for international environmental legislation in years to come.

It is still too early to come to any decisive conclusions about the Earth Summit or to determine whether it was a success or a failure. If one perceives UNCED as a vast, global gathering to raise consciousness about environmental and developmental concerns, then the Earth Summit may be deemed a resounding success. If, however, it is studied, as we have, within the context of the North-South confrontation, the reviews can only be tentative and mixed. Although some steps have been taken to extend environmental law in new directions, the formulations are very vague and rather weak. It is possible that participating nations can maintain the Rio momentum and build stronger Conventions in the future and produce treaties which will ensure firm time-tables and even firmer deadlines for implementation. If that does happen, Rio will probably be regarded by historians as a significant step in a process whereby North and South came to realize that the planet is a shared international inheritance, even though it is carved up into nationally-controlled spheres. UNCED may also be regarded in future as an important landmark in reinforcing what all of us already know but our governments are slow to

acknowledge, that the world is truly inter-dependent and inter-related, that one portion cannot be allowed to deteriorate because the consequences will ultimately affect us all. To care about the poor, the undernourished, the victims of environmental degradation is no longer just humanitarian concern for others. It is the ultimate form of self-preservation. The ultimate message of the linkage being perceived globally between the right to development and the right to a healthy environment is very simple and very clear. Either those of us who are fortunate enough to enjoy a decent standard of life act very soon to assure better living conditions for those not as blessed as we are or we all collapse together, perhaps not immediately but certainly in the very near future. The basic lesson to be learned from Rio may be that in the near future the rights to development and to a healthy environment will be enjoyed by all of us on the planet equitably or by none of us at all.