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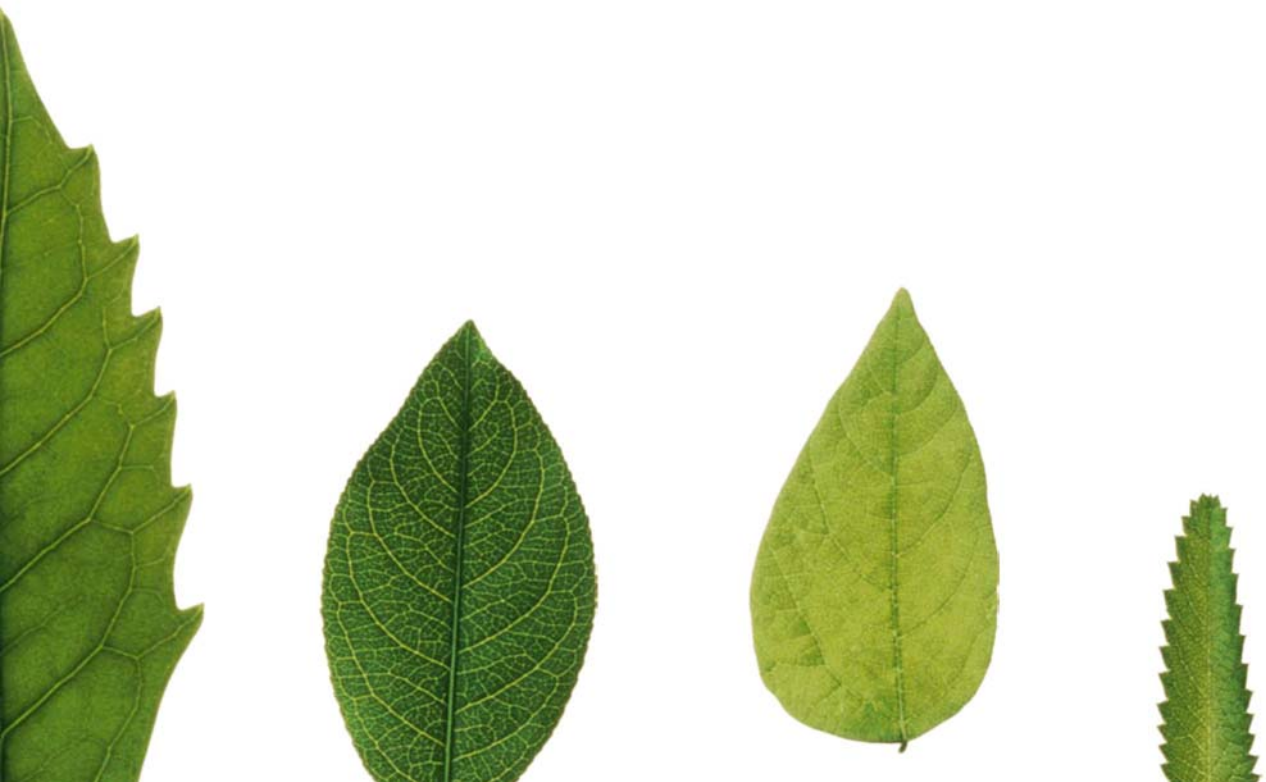
ENVIRONMENTAL GOVERNANCE CHALLENGES IN KIRIBATI: AN AGENDA FOR LEGAL AND POLICY RESPONSES

Dejo Olowu



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1 INTRODUCTION

Admittedly, 'governance' has acquired the status of a hackneyed concept and has since 1990 been applied by institutions, states, policy-makers, researchers and other commentators to diverse 'zones' of human endeavour.[1] When placed within the environmental context, the concept is generally defined as encompassing the relations and interplay among government and non-governmental entities, processes and normative frameworks, where powers and functions directly or indirectly influence the use, management and control of the environment.[2] Environmental governance thus concerns how legal and policy decisions are made, with particular emphasis on participation by the human beings who will thereby be directly affected by the outcome of such decisions.

Even though this concept originated within the purview of the international community's concerted responses to the environmental challenges of the mid-1980s and the decades following, there has been an unmistakable recognition that international responses and initiatives would only thrive when effective normative, institutional and policy frameworks are established at the domestic level. This thinking has even gained added relevance through the prevalent idea that environmental governance holds the potential of promoting the goals of sustainable development.[3]

While enormous amounts of literature have been circulating on the subject of environmental governance, what seems not to be keeping pace is the linkage of national challenges in legal and policy to current multilateral approaches and thinking. Kanie and Haas capture this scenario in the following words:

> There is growing interest in identifying the ways and means of creating a more effective synergy between the multitude of environmental institutions that exist at the local, national, regional, and global levels, and between those levels. The need for a common understanding of the interrelationships between different elements and dimensions of the environment, and sustainable development, extends well beyond the limitations of current scientific knowledge. The multilateral approach to these issues remains fragmented in terms of methods and mechanisms of scientific assessment and the development of consensual knowledge. This is also the case in regard to human capacity-building and the arts of domestic-regional-international interfacing in policy-making.[4]

Apart from the challenge of synergy, there are also peculiar weaknesses and constraints within national jurisdictions that global efforts are not adequately responding to.

In the case of the smaller island countries of the South Pacific, the body of scholarly literature has remained quite scanty, and in some cases non-existent, in the investigation of the theoretical and practical parameters of environmental governance and in charting the path for synergising critical local issues with global discourses.

It is against the backdrop of the foregoing that this essay emerges as a modest attempt at providing insight into an otherwise recondite terrain.

1 John Graham, Bruce Amos and Tim Plumptre, *Governance Principles for Protected Areas in the 21st Century* 5 (Ottawa: Institute of Governance, 2003).

2 *Id*. at 2-7.

3 *See* Report of the Chair of the Committee of Permanent Representatives to UNEP on International Environmental Governance, Report of the Chair on International Environmental Governance, Committee of Permanent Representatives to UNEP, 75th Meeting, Nairobi, Kenya, 27 June 2001, paras. 3-6.

4 Norichika Kanie and Peter M. Haas, *Emerging Forces in Environmental Governance* 3-4 (Tokyo: United Nations University Press, 2004).

2 BACKGROUND AND CONTEXTUAL ISSUES

Over the past decade, concerns about the environment have converged on the concept of global change. In this context, 'global change' refers to the tendency for the rapidly expanding and economically active world populations to alter the basic physical and biological processes of the planet Earth. Of particular concern are artificial changes in the chemistry of the atmosphere that cause acid deposits, depletion of the ozone layer, and climate changes.[5] Beyond these concerns, however, numerous other environmental problems demand attention, such as the spread of deserts, water scarcity, destruction of forests, loss of biodiversity, pollution and depletion of marine resources, and dumping of toxic wastes.

In the context of this essay, focus is on the legal and policy initiatives towards the establishment of an effective regime of environmental protection, the conservation of marine resources and the promotion of sustainable development in the South Pacific region,[6] with particular regard to Kiribati.

Neither the turning of the global spotlight on Kiribati nor the robust discussion of international environmental law framework in this essay is abstract or esoteric. After all, the interrelatedness of the universal environment is beyond disputation. Indeed very few people would differ that synchronised international action is essential to protecting the earth, its climate, conserving biodiversity, and managing aquatic and other shared resources. In short, the need for an articulate system of international environmental governance is clear. However, constructing such a system and maintaining its efficiency in the face of the many competing interests among states has proven very complicated.

The difficulty in pursuing environmental governance at a universal scale is compounded by the fact that there is no central institutional 'sovereign' to craft sweeping environmental protections at the international level and to insist on compliance. In the absence of such an arrangement, therefore, a fluid system of international environmental governance persists. The current system largely reflects the strengths and dysfunctions of international politics and shows the complexity of stimulating efficient collaboration among the divergent community of nations; not the least in environmental matters that demand universal action.

While Redgwell has identified diverse sub-themes of international environmental law that directly implicate environmental governance,[7] the particular area of concern in this essay is the illicit and licit, intra-national and transboundary movement and dumping of hazardous and dangerous materials as well as other categories of pollutants that threaten the safety of the environment and human beings. In this regard, the unbridled movement and dumping of permitted pesticides, polychlorinated biphenyls (PCBs), general industrial chemicals, laboratory chemicals, oil, bitumen, timber treatment chemicals, and fertilisers, many of which have been proven capable of causing adverse health effects on people, animals and marine life in the smaller states of the

5 Regina S. Axelrod, David L. Downie and Norman J. Vig eds., *The Global Environment: Institutions, Law, and Policy* 3-5 (Washington, DC: CQ Press, 2005).

6 The phrase 'South Pacific' has been used by various writers in different contexts, with varying meanings. For the purposes of this essay, however, I am employing the term to refer to all the sixteen independent and self-governing states in the Pacific Ocean region that make up the 'Pacific Islands Forum', excluding Australia and New Zealand. *See* Australian Government, Department of Foreign Affairs and Trade available at http://www.dfat.gov.au/geo/spacific/regional_orgs/spf.html. The territories covered are, therefore, those of the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Republic of the Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

7 Catherine Redgwell, 'International Environmental Law', *in* Malcolm D. Evans ed., *International Law* 657, 667-684 (Oxford: Oxford University Press, 2007).

South Pacific becomes a major subject of investigation.[8]

This concern is not bogus or negligible. Way back in 1992, the United Nations Conference on Environment and Development (UNCED) had sought to conscientise the international community to the critical challenges confronting the smaller Pacific island states, and in particular Kiribati, which is a low-lying state of numerous atolls. In the UNCED's own words:

> Although the total volumes of waste produced may not be large compared to other countries, the effects of the disposal of increasing amounts of waste on fragile small islands environments are likely to be extreme and constitute a very serious constraint to sustainable development. This is particularly true for atolls with limited fresh water supplies and inshore lagoon marine ecosystems that are easily contaminated.[9]

In thematic terms, therefore, this essay examines the legal and policy frameworks from the international, regional and national perspectives and highlights the adverse impact that pollution has had and continues to have for environmental management, the conservation of marine resources in particular and biodiversity in general, and the promotion of sustainable development in Kiribati. While observing that there yet remains the need for greater coherence in the applicable legal and policy frameworks, this essay emphasises the need to maximise the benefits of the existing frameworks and suggests some collaborative state-civil society approaches in this regard.

3 OVERVIEW OF INTERNATIONAL LEGAL AND POLICY FRAMEWORKS

A substantial evolution in global environmental governance has occurred since the landmark United Nations (UN) Conference on the Human Environment held in Stockholm in 1972. A series of single-theme world conferences have also discussed specific environmental problems and drawn action plans for addressing them. New international institutions have been created, the most notable being the United Nations Environment Program (UNEP) and the United Nations Commission on Sustainable Development, and previously existing organisations such as the Food and Agriculture Organisation (FAO), the World Meteorological Organisation (WMO), the International Maritime Organisation (IMO), United Nations Educational, Scientific and Cultural Organisation (UNESCO), the European Union (EU), and the World Bank have expanded their activities in the environmental realm. Furthermore, hundreds of international treaties and other international agreements have been concluded on subjects ranging from the marine environment to outer space and from species preservation to protection of the ozone layer.[10]

Particularly significant among these legal and policy frameworks are the *Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972*, the *United Nations Convention on the Law of the Sea (UNCLOS), 1982* (Part XII), the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989*, the *Convention on Biological Diversity, 1992*, the *UN Framework Convention on Climate Change (UNFCCC), 1992*, the *UN Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks, 1995*, and the *Cartagena Protocol on Biosafety to the Convention on Biological Diversity, 2000*.[11] To these must be

8 In 2001, a scientific study had shown the adverse effects of many of these products in some 13 Pacific Island countries. *See* J.F. Lauerman, 'Wasting Away in the South Pacific', 109/2 *Environmental Health Perspectives* 1-5 (2001). *See also* Dejo Olowu, 'The United Nations Special Rapporteur on the Adverse Effects of the Illicit Movement and Dumping of Toxic and Dangerous Wastes on the Enjoyment of Human Rights: A Critical Evaluation of the First Ten Years', 8/3 *Environmental Law Review* 199, 215 (2006).

9 United Nations Conference on Environment and Development (UNCED), *UNCED Report: Kiribati, 1992* 56 (New York: United Nations, 1992).

10 *See* Redgwell, note 7 above at 659-667. *See also* Antonio Cassese, *International Law* 491-493 (Oxford: Oxford University Press, 2nd ed. 2005).

11 For a comprehensive anthology on these and numerous other instruments, see Philippe Cullet and Alix Gowland-Guatieri, *Key Materials in International Environmental Law* (Aldershot: Ashgate Publishing, 2004).

added the numerous non-binding policy statements emanating from the international community since the UN Conference on the Human Environment held in Stockholm in 1972.[12]

The underpinning theme of all these normative and policy instruments is the increasing global recognition that the conservation of biological diversity and the protection of the environment is about more than plants, animals and micro organisms and their ecosystems – it is also about human beings and their need for food security, medicines, fresh air and water, shelter, and a clean and healthy environment in which to live.[13]

It is noteworthy that Kiribati is a State Party to all the treaties mentioned above and the Kiribati government has continued to actively participate in further international initiatives in this area.

4 OVERVIEW OF REGIONAL LEGAL AND POLICY INITIATIVES

In recent times, the governments of South Pacific countries have been paying closer attention to the need for more collaborative action in the spheres of ocean and marine resources management, monitoring of explorative and extractive activities, prohibition of illegal fishing and logging towards sustainable development in the region. The arrowhead of the collaborative efforts among governments of the Pacific Islands is the South Pacific Regional Environment Programme (SPREP), a regional organisation established by the governments of the Pacific region to monitor and improve the environment, pursuant to the *Agreement Establishing the South Pacific Regional Environment Programme*, adopted in Apia, Samoa, on 16 June 1993.

Under Article 2 (1) of its establishing instrument, the purposes of SPREP are to promote cooperation in the South Pacific region, to provide assistance in order to protect and improve its environment, and to ensure sustainable development for present and future generations. SPREP aims to achieve these purposes through the Action Plan adopted from time to time by the SPREP Meeting that established the strategies and objectives of SPREP. The SPREP Action Plan currently covers:

(a) co-ordinating regional activities addressing the environment;

(b) monitoring and assessing the condition of the environment in the region including the impacts of human activities on the ecosystems of the region and encouraging development undertaken to be directed towards maintaining or enhancing environmental qualities;

(c) promoting and developing programmes, including research programmes, to protect the atmosphere and terrestrial, freshwater, coastal and marine ecosystems and species, while ensuring ecologically sustainable utilisation of resources;

(d) reducing, through prevention and management, atmospheric, land based, freshwater and marine pollution;

(e) strengthening national and regional capabilities and institutional arrangements;

(f) increasing and improving training, educational and public awareness activities; and

(g) promoting integrated legal, planning and management mechanisms.

From being a relatively small initiative in the 1980s, SPREP has become an umbrella organisation for its 21 Pacific island member countries and four countries with direct interests in the Pacific region.[14]

12 *Id.*

13 Alexandre Kiss and Dinah Shelton, *International Environmental Law* 6 (New York: Transnational Publishers, 1991) and Alexander Gillespie, *International Environmental Law Policy and Ethics* 107 (New York: Oxford University Press, 1997).

14 These are American Samoa, Australia, Cook Islands, FSM, Fiji Islands, France, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand, Niue, Northern Mariana Islands, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, the United States of America, Vanuatu and Wallis and Futuna. See SPREP, 'SPREP Members' available at http://www.sprep.org/members/map.htm.

Beyond the purview of SPREP, however, there exists a broad assortment of organisations and institutions as well as diverse normative instruments aimed at securing a protective regime for the South Pacific environment.[15] Of particular significance are the *South Pacific Forum Fisheries Agency Convention, 1979*, the *South Pacific Nuclear Free Zone Treaty, 1985*, the *Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, 1989*, and the *Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region* (*Waigani Convention*), *1995*. Kiribati is a State Party to all the above treaties.[16] Regrettably, however, Kiribati is yet to accede to the *Convention on Conservation of Nature in the South Pacific, 1976*, and the *Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, 1986*, and its related Protocols - regional environmental treaties that are of utmost importance to the theme of this essay.

5 OVERVIEW OF NATIONAL LEGAL AND POLICY FRAMEWORKS

At the time of adopting the Constitution of Kiribati in 1979, its drafters had not considered the right to a safe and healthy environment to be one that required positive recognition in such a fundamental legislation. The Constitution therefore did no more than provide that the country's resources belong to the people and Government of Kiribati.[17]

Over the course of time, however, a number of notable statutes have been enacted for the purposes of environmental protection and the conservation of biodiversity in Kiribati. Significant for this essay are the *Marine Zones (Declaration) Act, 1983*, the *Fisheries (Pacific Island States Treaty with the USA) Act, 1988*, the *Shipping Act, 1990*, the *Kiribati Port Authority Act, 1990*, the *National Disaster Act, 1993*, and the *Environment Act, 1999*. To these must be added various pre-independence ordinances and regulations, as well as more recent policy statements such as the National Environmental Management Strategy, 2004, and the Seventh National Development Plan 2005-2009, which sets priority on the development of fisheries, among other programmes.

6 ENVIRONMENTAL GOVERNANCE CHALLENGES IN KIRIBATI: RAISING THE GAUNTLET

With over 2000 species of flora and fauna, spread across over 33 million square kilometres and covering numerous microstates, islands and atolls, the diversity of the ecosystems of the South Pacific region is very much unlike anywhere else in the world.[18] Customarily, South Pacific peoples, including those of Kiribati, had always observed respect for the environment and recognition of the link between environmental preservation and human survival.[19] This should not come as a surprise bearing in mind the geographical uniqueness of Kiribati.

Regrettably, however, increasing populations, human migration and the exploitation of the ecosystems for commercial purposes are placing enormous constraints on the limited land and coastal marine ecosystems and the biodiversity they contain. Diverse development projects and extractive

15 All these can be found on the websites of the Asia-Pacific Centre for Environmental Law http://law.nus.edu.sg/apcel/links/pacific.html.

16 Mere Pulea and David Farrier, *Environmental Legislation Review – Kiribati – 1993* at 14-15 (Apia: SPREP, 1993).

17 Preamble, para 4, Constitution of Kiribati, 1979.

18 *See* South Pacific Environment Programme (SPREP), *Action Strategy for Nature Conservation in the South Pacific Region, 2003-2007: Mainstreaming Nature Conservation* 3-5 (Apia: SPREP, 2004).

19 *See* Anonymous, Kiribati: Looking Ahead (2005), available at http://www.janeresture.com/ki33/looking_ahead.htm.

activities continue to take place without appropriate normative, structural or institutional frameworks to cater for the long term consequences of such activities. As a result, incidences of improper dumping of toxic wastes and hazardous products, water pollution, soil degradation, depletion in fish resources have become commonplace in the South Pacific region.[20]

It is worthy to note that pollution of the ecosystem, cited as one of the most formidable menaces to environmental protection and the conservation of biodiversity, has become a common experience across the South Pacific region, including Kiribati.[21] Pollution manifests in two major ways in Kiribati: through (a) discharge from ships and (b) through land based pollution and sedimentation.[22]

6.1 Discharge from Ships

While the extent of the threat is yet to be verified by empirical research, the phenomenon includes oil spills, toxic spills and ballast discharges. Currently, there is little control exerted over the discharge of bilge water and ballast from trading and fishing vessels into Kiribati seas. Also, some one hundred WWII and trading ship - and aeroplane - wrecks lie scattered on the seabed in central and western Kiribati; these vessels are beginning to break up giving rise to fears of serious contamination of reef and coasts by oil.

6.2 Land Based Pollution and Sedimentation

Sources such as sewage, waste disposal, industrial discharges, fish cannery waste disposal, oil palm wastes, urban run-off, siltation from agricultural practices and logging all pose threats to marine ecosystems in Kiribati.

The negative short and long term consequences of these pollutant activities on the Kiribati economy, society and the environment are enormous.[23]

While Kiribati, a state of the dualist orientation, has ratified or acceded to some of the vital treaties, it has generally neglected the domestication of the provisions of these treaties, a necessary requirement for integrating them into the municipal law of Kiribati and making them enforceable.

Furthermore, in respect of some of these treaties, Kiribati has often failed to submit its periodic reports to the treaty monitoring bodies as and when due.[24] When it submits such reports, those reports end up being no more than mere self-praising reports emanating from government offices in Tarawa. They are usually devoid of civil society input. A case in point is the *Convention on Biodiversity, 1992*. Whereas Kiribati had reported at the presentation of its Second National Report under the treaty that its government had adopted Kiribati National Biodiversity Strategy and Action Plan in February 2000, and that it was waiting executive approval,[25] to date no such document has been presented to the people of Kiribati for their input. The document, at best, has thus remained a mere policy draft.

It is no longer novel for states parties to multilateral treaties to plead fiscal constraints and institutional capacity. Some developing states had actually raised this as factor for their non-performance and

20 *See* Pulea and Farrier, note 16 above, at 1. *See also* Review of the State of the Environment in Asia and the Pacific, UN Doc. E/ESCAP/SO/MCED(00)/1, Regional Review Meeting in Preparation for the Ministerial Conference on Environment and Development in Asia and the Pacific, Bangkok, 8-10 May 2000 http://www.unescap.org/mced2000/pacific/SoE-pacific.htm.

21 *See* Duncan E.J. Curie, 'The International Law of Shipments of Ultrahazardous Radioactive Materials: Strategies and Options to Protect the Marine Environment', Paper given to South Pacific Regional Workshop on Criminal Law and its Administration in International Environmental Conventions, Apia, Western Samoa, 22-26 June 1998 available at http://www.globelaw.com/Nukes/Nuclear%20Shipment%20Paper.htm.

22 *See generally* SPREP, 'Pollution in the Pacific' available at http://www.sprep.org/topic/pollution.htm.

23 *See generally* SPREP, 'Persistent Organic Pollutants' available at http://www.sprep.org/topic/Persistent.htm.

24 *See generally* Convention on Biodiversity: National Reporting available at http://www.biodiv.org/reports/default.aspx.

25 Convention on Biodiversity: Kiribati: Second National Report available at http://www.biodiv.org/doc/world/ki/ki-nr-02-en.doc.

lukewarm attitude in the environmental field. In 2001, the Executive Director of the UN Global Ministerial Environment Forum on International Environmental Governance had mentioned that:

> [T]he present proliferation of structures, agreements and conferences, which has resulted in a heavy burden on developing countries in particular, many of which simply do not have the necessary resources either to participate in an adequate and meaningful manner, or to comply with the complex and myriad reporting requirements associated therewith. It is also becoming apparent that weak policy coordination is resulting in missed opportunities to enhance coherence and synergy among the various instruments. The number of legal agreements dealing with environment and sustainable development is increasing while the average time taken to negotiate each treaty is decreasing. At the same time, the scale of problems to be addressed has widened - from the regional through the hemispheric to the global - while the number of sovereign States that have to participate in the negotiation of such legal arrangements has gradually burgeoned. This proliferation has placed additional burdens on many countries, particularly in respect of domestic coordination. In this regard, cognisance needs to be taken of constraints faced by developing countries in terms of their limited capacity, financial resources and lack of access to technological expertise. Whereas the creation of the various legally binding conventions and protocols on the environment constitutes an outstanding achievement on the part of the international community, it also raises the need for continuing policy coherence among the various instrumentalities that exist in this area at both the inter-agency and intergovernmental levels.[26]

However, the above rendition seems bloated. Empirical research has shown that often hidden behind this common excuse for non-compliance with critical human-centred treaties are diverse other potent factors. These could include lack of the political will required to confront the economic players in areas of concerns, the complicity of a ruling government through its cronies and patrons, and sometimes failure to prioritise budgetary commitments.[27]

Even though the *Environment Act, 1999*, was enacted supposedly to domesticate some of the provisions of the treaties to which Kiribati is a State Party, the legislation fails to provide a comprehensive implementation framework for its provisions. From a critical point of view, the *Environment Act, 1999*, has proved to be an inadequate framework for dealing with environmental issues for a variety of reasons, ranging from difficulties of proof to liability for unlawful activities, the lackadaisical attitude of law enforcement agencies to apprehend and prosecute offenders as well as the question of non-state actors operating in Kiribati.

It is common knowledge for any first time visitor to Kiribati, for instance, that very few private homes have facilities for the disposal of human wastes while public toilet facilities do not exist even in Tarawa, the capital of Kiribati. The unmistakable implications of this situation have been explored in another context and should not detain us here.[28]

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26 Report of the Executive Director of the UN Global Ministerial Environment Forum on International Environmental Governance, UN Doc. UNEP/GCSS VII/2 (2001), p. 5. *See also* Overview of Progress on International Environmental Governance: Report of the Executive Director, UN Doc. UNEP/GCSS VIII/2 (2004), p. 3.

27 *See* Dinah Shelton, *Commitment and Compliance: The Role of Non-binding Norms in the International Legal System* 4-10 (Oxford: Oxford University Press, 2000) and Dejo Olowu, 'The United Nations Human Rights System and the Challenges of Commitment and Compliance in the South Pacific', 7(1) *Melbourne Journal of International Law* 155, 162-166 (2006).

28 *See* Claire Marshall, *Governance and the Common Toilet* 2-4 (Ottawa: Institute on Governance, 2003).

Furthermore, while shipping companies bring their ships that are no longer seaworthy for breaking down on the shores of Kiribati, rather than apprehending them for illegal activities, these companies are seen as bringing in foreign exchange income to Kiribati. It is disturbing that while Section 33 of the *Environment Act, 1999*, prescribes elaborate penalties for unlawful disposal of human and animal excrements, the Act says nothing about penalties for offshore/foreshore discharge of toxic wastes or hazardous materials, or the breaking of contaminated ships on Kiribati shores.

It is also worrisome that while the 1999 Act attempts to address pollution in general terms, it made no reference to pesticides, consumed by industry, or generated as by-products of various industrial and combustion processes, which are persistent organic pollutants threatening human life, the environment and biodiversity in Kiribati.

One other remarkable shortfall of the national legal and policy initiatives taken by the government in Kiribati is the virtual exclusion of the ordinary people. No matter how superb government-initiated laws and policies may appear, their efficacy will always depend on social mobilisation efforts. Such mobilisation has been lacking despite the numerous treaties, enactments and plans demonstrating the government's commitment at the formal level.

7 STRATEGIES FOR STRENGTHENING THE FRAMEWORK OF ENVIRONMENTAL PROTECTION AND SUSTAINABLE DEVELOPMENT IN KIRIBATI

From the foregoing discussion, quite a lot has been done in terms of laws and policies for environmental protection in the South Pacific as a whole, and in Kiribati in particular. However, to translate these efforts into lasting initiatives towards the goals of sustainable development, the need arises for the integration of stronger environmental legal and policy frameworks into all industrial, development and socio-economic activities. Policy makers must realise the need for the integration of environmental impact assessment mechanisms into development processes as well as the need for the civil society to have a say in international dialogue on ways of tackling global environmental problems.

At the same time, peoples of the Pacific Islands at the grassroots must get to appreciate the significance of environmental protection and the long-term effects of unrestrained economic activities on their lives and livelihood. So far, this multi-dimensional approach is yet to materialise.

At the national level, a lot remains to be done if the goals of environmental protection, sustainable development and the conservation of biodiversity are to be realised in Kiribati. These goals cannot be actualised through social exclusion or patronage as we have had in the past. I therefore suggest that the Kiribati government must inject the ideas and contributions of the ordinary I-Kiribati people into environmental legal and policy processes.[29]

Furthermore, civil society organisations should utilise the reporting mechanisms available under the relevant treaties to express the true position of environmental degradation, biodiversity loss, depletion of marine resources and pollution in Kiribati. Efforts should be made to expose how the government and/or its agencies have been colluding with powerful foreign companies to received toxic and hazardous materials into Kiribati.

The police and all other law enforcement agencies should also be trained to build their capacity to respond to violations of treaty and municipal laws relating to environmental protection and the conservation of biodiversity in Kiribati.

In same vein, the government of Kiribati should accede to the *Convention on Conservation of Nature in the South Pacific, 1976*, and the *Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, 1986*, and its related Protocols, and domesticate them. The *Environment Act, 1999* is too narrow and weak to respond to all

29 "I-Kiribati" is the adjective for Kiribati. It is unisex and has no difference in plural/singular usage.

these and future challenges. This calls for urgent reform of this Act and other relevant statutes as may be necessary to make them conform to contemporary frameworks around the world.

To complement the above suggested normative reforms, new enactments should be put in place to assure that the environment be protected against both public and private actions that failed to take account of costs or harms inflicted on the eco-system. In institutional dimension, a distinct national Environmental Protection Agency should be established to monitor and analyse the environment, conduct research, and work closely with state and local governments to devise pollution control policies.

8 CONCLUSION

This essay has attempted to examine the legal and policy frameworks regulating environmental protection and the conservation of biodiversity within the broader goal of sustainable development in Kiribati. As this author acknowledged at the outset, Kiribati encounters formidable challenges in institutional, normative and policy terms. This essay has particularly dealt with the issue of pollution and its long- and short-term implications for this nation of numerous atolls.

An underpinning reality highlighted in this essay is the state-centric approach to the totality of environmental governance issues in Kiribati. While noting the abundance of significant treaties, municipal laws and diverse policy mechanisms, this essay has been able to identify gaps and weaknesses, making suggestions for their reform and enhancement. Recognising that the path to the future lies in a synergy of initiatives and inputs among the government, the people and all other stakeholders in the environmental well-being of Kiribati, therefore, this essay proffers some viable trajectories for strategic responses.

Far from being an *ex cathedra* pronouncement on all the dynamics of environmental governance in Kiribati, this essay will have served its purpose if it stimulates further discourses on the promotion of environmental protection and sustainable development efforts in Kiribati and the South Pacific as a whole.

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