

RICHNESS OF TRADITIONS – ENVIRONMENTAL TRADITIONS

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I. Introductory remarks

We may take as a motto or guiding principle of the present paper the words of Igor Stravinsky¹: “A true tradition is not the witness of a remote past; it is a living force that enlivens and nourishes the present. Far from a mere repetition of what has gone before, a tradition is an ongoing reality. It can be considered as family property, a heritage one receives on the condition that it be allowed to fructify before its transmission to future generations.”

These words properly summarize what is my “preconception” about traditions, which are part of our heritage, part of our life, which are – or should be – living together with us. This is true in case of cultural traditions – special folk traditions to celebrate Easter – behavioural traditions – which may even be as behavioural rules, but it is even more the case, if we take the example of those traditions, which are connected with the management of natural resources, or in a broader sense, with environmental protection. In the present paper we only focus on these latter elements, and not on the whole concept of traditions. Our focus is on the connection between traditions and environment, environmental protection.

Before entering into the discussion of the details on traditions, we have to understand what tradition officially means. According to the encyclopedia²:

“The word *tradition* comes from the Latin word *traditio* which means "to hand down" or "to hand over." It is used in a number of ways in the English language:

1. Beliefs or customs taught by one generation to the next, often orally. For example, we can speak of the tradition of sending birth announcements.

¹ Igor Stravinsky, *Poetics of Music*, Paris 1952

² Wikipedia, the free encyclopedia – www.wikipedia.org

2. A set of customs or practices. For example, we can speak of Christmas traditions.
3. A broad religious movement made up of religious denominations or church bodies that have a common history, customs, culture, and, to some extent, body of teachings. For example, one can speak of Islam's Suf tradition or Christianity's Lutheran tradition.

However, on a more basic theoretical level, tradition(s) can be seen as information or composed of information. For that which is brought into the present from the past, in a particular societal context, is information. This is even more fundamental than particular acts or practices even if repeated over a long sequence of time. For such acts or practices, once performed, disappear unless they have been transformed into some manner of “communicable information.”

It was essential to go into the definition of tradition(s) in order to understand that information is the core element, which covers customs, behavioural elements, practices, either religious or secular, the major *raison d'être* of which is to govern or at least to influence people, groups of people, nations, societies.

As our main focus is on the richness of traditions related to environment, we have to underline that the main idea here is to revitalize the different aspects of environmental traditions, in order to prove the continuity of human activities related to environment and to urge communities, also the national and international forums to turn more and more towards the values of human traditions. In this paper we would like to list a number of elements related to this subject matter:

- starting with some real life examples;
- going to the view of different churches on environmental issues;
- analysing theoretical issues;
- looking at international treaties related somehow to common heritage;
- and finally adding some concluding remarks.

As we have a preconception that is the importance of environmental traditions in solving our present environmental problems, it is worth to support this view with the wording of a separate opinion of one of the judgments of the International Court of Justice³. Vice-President Weeramantry wrote: “There are some principles of traditional legal systems that can be woven into the fabric of modern environmental law. They are specially pertinent to the concept of sustain-

³ 10 years ago, 25 September, 1997, the ICJ issued its judgment in the Gabčíkovo-Nagymaros case, a case between Slovakia and Hungary on the Danube dam. The separate opinion has been attached to the judgment. See: www.icj-cij.org

able development which was well recognized in those systems. ... In the context of environmental wisdom generally, there is much to be derived from ancient civilizations and traditional legal systems in Asia, the Middle East, Africa, Europe, the Americas, the Pacific, and Australia – in fact, the whole world. This is a rich source which modern environmental law has left largely untapped.”

Thus human activities related to the environment have always been governed by traditions such as those which are taken today as sustainable development concepts. The reason, why it is so important is also summarised in the judgment, referred above. As the Court has observed: "Throughout the ages mankind has, for economic and other reasons, constantly interfered with nature." (Judgment, para. I40.)⁴

II. Traditions and environment – examples

Human relationship to the environment, the use of natural resources, the honour of nature, the means and methods of farming, etc. have always been governed by traditions. Probably the most well-known cases from the American Wild West history are connected to trees and totem poles. The American Indians regarded trees as one of their most valuable resources. To most Americans and also in Europe, the totem pole has become the symbol for the northern Indians. These totem poles are symbols of social, economic and tribal status, also refer to the history of the tribes and to ancestors in nature, like bear, wolf, beaver, etc. They could also mean that Indians always had a close relationship to nature.

When speaking about traditions and environment, most people think about indigenous tradition, which issue has the most literature. One of the very recent documents on this issue provides a unique summary of the problem⁵: “2. “Indigenous traditional knowledge” is used in this paper in general terms to mean the traditional practices, culture, knowledge of plants and animals and knowledge of their methods of propagation; it includes expressions of cultural values, beliefs, rituals and community laws and it includes knowledge regarding land and ecosystem management. It is more often unwritten and handed down orally from generation to generation and it is transmitted and preserved in this way.” This summary may well be used for characterizing traditional knowledge in general. Later the author refers to some examples of aboriginal environmental

⁴ See judgment above.

⁵ Implementation of recommendations on the six mandated areas and on MDGs Report on Indigenous Traditional Knowledge – Prepared by Michael Dodson for a UN Permanent Forum on Indigenous Issues (Sixth session, New York, 14-25 May 2007)

protection traditions, which are even taken up by the legislation – e.g., in Australia or in the Canadian *Environmental Assessment Act 1992* .

One of the best experts of indigenous traditions, John Grim in its essay⁶ underlines: “Along with kinship and spatial and biographical relationships with places, another key feature of indigenous religions and ecology is traditional environmental knowledge. Care for the earth is woven into the governance systems of indigenous people, and when these systems break down often the restraint and continence guarding life is lost.”

As one of the main focus of CEDE⁷ is water, it is worth to mention, that “Indigenous issues should be promoted within the framework of the International Decade for Action “Water for Life” (2005-2015) and the Decade for Education for Sustainable Development, by highlighting the role of indigenous peoples to ensure a sustainable development at the local level, given their special knowledge and highly developed ways of living in harmony with the environment.”⁸

If now we continue our research in the field of environmental traditions, the 2003 annual report of the World Resources Institute discusses some similar problems and case studies, but mostly in connection with the core issue, that is public participation⁹: “How we make decisions determines how effective these decisions are at managing nature and how fair they are to the affected people. ... In 1998, the residents of Rarotonga in the Cook Islands revived a traditional practice of protecting sections of the island’s lagoons and coral reefs from fishing and the harvesting of shellfish, coral, and other marine life. Islanders had noticed a decline in the number and size of marine life, in addition to coral bleaching and an invasion of starfish—a sign of reef stress. Outside groups suggested that action was needed to keep the island’s marine resources from depleting further, but it was local initiative by the island’s traditional chiefs, supported by the community, that precipitated action. The chiefs have no legal powers to control resources, but they do still command public respect and exercise community leadership. After consultation with local communities around the island, five protected areas were established by common decree for an initial period of two years. Enforcement of the harvest bans is strictly by social

⁶ Introduction to Indigenous Traditions – Indigenous Traditions and Ecology: The Interbeing of Cosmology and Community. Edited by John Grim, Cambridge, MA: Harvard University Press for CSWR series World, Religions and Ecology, 2001. This article was originally published in *Earth Ethics* 10, no.1 (Fall 1998). The article can be found on the site of the Harvard University Center for the Environment (see: www.environment.harvard.edu)

⁷ Conseil Européen de Droit de l’Environnement

⁸ 19/7/05 – Draft Programme of Action for the Second International Decade of the World’s Indigenous People, UN

⁹ World Resources 2002-2004: Decisions for the Earth, WRI, Washington, 2003 – Box 1.1 Who Governs Nature? (p.3.)

means—through embarrassment—but local compliance is high... Direct participation in the coastal management regime has brought wide public acceptance and effective local control of the marine resource.”

A famous American environmentalist, Wendell Berry says: “Our environmental problems... are not, at root, political; they are cultural... our country is not being destroyed by bad politics; it is being destroyed by a bad way of life”¹⁰. When we discuss environmental traditions, this statement may be taken as our starting point. Culture affects how we relate to and value elements of the natural world. While urbanization is separating many people from nature, some still identify closely with the land. As we have already discussed, many indigenous cultures acknowledge and honour elements of ecosystems and the spirits of trees and animals. Western cultures tend to turn towards individualism and evidence-based decision-making, while some of the Eastern cultures often place high value on collective needs and holistic understanding. If human culture is separated from the ecosystem and environment around human beings, the contact is lost and we also lose our knowledge on and sympathy with the environmental values.

In his separate opinion Vice-President Weeramantry (ICJ) wrote as an example on the importance of traditional knowledge¹¹: “I shall start with a system with which I am specially familiar, which also happens to have specifically articulated these two needs – development and environmental protection – in its ancient literature. I refer to the ancient irrigation-based civilization of Sri Lanka. It is a system which, while recognizing the need for development and vigorously implementing schemes to this end, at the same time specifically articulated the need for environmental protection and ensured that the technology it employed paid due regard to environmental considerations. This concern for the environment was reflected not only in its literature and its technology, but also in its legal system, for the felling of certain forests was prohibited, game sanctuaries were established, and royal edicts decreed that the natural resource of water was to be used to the last drop without any wastage.”

Of course, we may mention many more practical examples, but as an homage to the organisers, we only focus on a local issue, the case of levada in Madeira, which means according to the web: “a Portuguese word derived from the word “levar” – which means to carry and is roughly translated as “carriageway”, but more correctly defined as mini-canal. The mini-canals are irrigation systems developed to distribute water from the rainfall heavy and wet regions on the north of the island to the drier sun parched regions of the south. ... The levadas

¹⁰ The quotation may be found in *Spirits and Nature* (ed. by Rockefeller, Steven C, and John C. Elder), Boston, Beacon Press, 1992, p. 30.

¹¹ See footnote No. 3.

cover a total distance of 2500 km, and date back to as far as the early 16th century.” That is the way, how local farming traditions may have a fruitful effect on present environmental situation.

Environmental traditions usually find their basis in the close relationship between people and their environment, which is the basis of understanding different environmental situations. If we change, for example, the system of the Middle Ages agriculture and move from crop-rotation to monocultures, then the use of chemicals and the spreading of plant diseases may easily be a direct consequence.

III. Churches and environmental traditions

Thinking about traditions, first we turn towards the different religious views, being themselves decisive parts of traditions and the churches have a lot to say. The best way to start our discussion on religious traditions is a relatively recent document, the *“Venice Declaration”*¹² within which people’s choice, religion, tradition and government responsibilities are all summarised in the followings:

“If we examine carefully the social and environmental crisis which the world community is facing, we must conclude that we are still betraying the mandate God has given us: to be stewards called to collaborate with God in watching over creation in holiness and wisdom.

First, we must regain humility and recognize the limits of our powers, and most importantly, the limits of our knowledge and judgement.

Religions, governments and institutions are faced by many different situations; but on the basis of the principle of subsidiarity all of them can take on some tasks, some part of the shared effort.”

Our survey on environmental related tradition and churches focuses mostly on those churches which are characteristic for Europe and some typical and interesting responses of the Asian religions. The best is to start with the major source of European religious – Judeo-Christian – traditions, that is with the Jewish traditions. It is also worth to mention, that in the past some years of decades several Jewish authors and religious institutions have been turning more and more towards the theoretical foundations of environmental thinking of contemporary Jewish life.

¹² Joint Declaration of John Paul II and the Ecumenical Patriarch His Holiness Bartholomew I, issued Monday, 10 June 2002

The Coalition on the Environment and Jewish Life¹³ in its Tenth Anniversary Report emphasizes: “Many *mitzvot* (commandments) found in the Bible and laws found in the Talmud instruct us to protect what the Jewish tradition views as “God’s creation”— the totality of the physical world in which we live. *Bal tashchit* (do not waste) teaches us to conserve resources. *Shiluach ha-keyn* (chasing away the mother bird) teaches us to safeguard all species. *Shmita* (sabbatical year) teaches us that economic justice and ecological sustainability are intimately related. And *Shabbat* reminds us that we are but one strand in the web of creation.”

The above report of the Coalition quotes Rabbi Abraham ben Moses (1186 – 1237): “In order to serve God, one needs access to the enjoyment of the beauties of nature, such as the contemplation of flower-decorated meadows, majestic mountains, flowing rivers... For all these are essential to the spiritual development of even the holiest people.”

According to Manfred Gerstenfeld¹⁴ the above mentioned *bal tashchit* is the central element. “This commandment is often considered the cornerstone of the Jewish approach to environmental issues.” He also refers to the history of the Middle Ages, when “Personal hygiene was a crucial matter during the plagues and epidemics of the Middle Ages. The relatively strict attention Jews gave to hygiene was probably behind the low incidence of the Black Death in their communities.”

The European Christian Environmental Network is an organisation of different Christian churches, which in 2005 published¹⁵ a summary of thinking along environmentally sound lines, saying: “The Christian tradition is rich in its description of the human role and responsibility in relation to creation. We are called creatures, stewards, servants, prophets, kings, co-workers. We recognise the damage done by some notions of human dominion and domination in the past. We acknowledge God has given all human beings, created in the image and likeness of God (Genesis 1:28), a crucial role and responsibility as priests of creation and partners of God in it. ... In the process of handling natural resources and turning them into human goods and services, we are taking of God’s gifts in creation and accepting our responsibility for their transformation.”

¹³ See: www.coejl.org

¹⁴ Jerusalem Center for Public Affairs – Jewish Environmental Perspectives (*No. 1 April 2001*) – Jewish Environmental Studies: A New Field, Manfred Gerstenfeld

¹⁵ The 2005 Assembly meeting in Basel – “*The Churches' Contribution to a Sustainable Europe*” (8 May 2005 – A Call of the European Christian Environmental Network Assembly in Basel)

The following words of the same document are directly related to the different vision of human beings from the past and of today, which is also a good summary and reasoning of different human traditions: "The crucial thing here is the engagement with the heart. Modern people have lost the heart connection to creation which was common among preurbanised people. They have consequently been desensitised to the suffering of imprisoned animals in the modern food industry and to the suffering of their fellow humans from poverty and injustice associated with certain kinds of modern economic development."

Catholic religious documents of the past decades are also full of references to environmental protection, mostly based on the different books of the Bible¹⁶. More than 40 years ago Pope John XXIII in his Encyclical 'Pacem in Terris'¹⁷ wrote: "55. ... Thus, attention must be paid to the basic nature of the common good and what it is that brings it about. 56. We must add, therefore, that it is in the nature of the common good that every single citizen has the right to share in it—although in different ways, depending on his tasks, merits and circumstances."

From among the several other documents of the Roman Catholic Church there is only one more example, an other Encyclical, twenty-six years after the previous one and this time from Pope John Paul II¹⁸, the words of which refer to the original meaning of religious traditions related to the Creation and the role of man in it:

„15. What modern man is afraid of

We seem to be increasingly aware of the fact that the exploitation of the earth, the planet on which we are living, demands rational and honest planning.

Man often seems to see no other meaning in his natural environment than what serves for immediate use and consumption. Yet it was the Creator's will that man should communicate with nature as an intelligent and noble "master" and "guardian", and not as a heedless "exploiter" and "destroyer"."

Interestingly enough, the different Christian documents related to environmental traditions in many cases cover legal principles, such as the above mentioned subsidiarity or the connection of generic human traditions and public participation. In its Social Statement of the Evangelical Lutheran Church in

¹⁶ For more on the Bible see: Dinah Shelton: "Nature in the Bible." in *Les Hommes et l'Environnement: Quels Droits Pour le Vingt-et-unieme Siecle? Etudes en Hommage a Alexandre Kiss*, edited by M. Prieur & C. Lambrechts. Paris: Editions Frison-Roche, 1998.

¹⁷ Issued on April 11, 1963

¹⁸ Ioannes Paulus PP. II, *Redemptor hominis* (1979. 03. 04.)

America¹⁹ we may read among others: “The principle of participation means they are entitled to be heard and to have their interests considered when decisions are made. ... Creation must be given voice, present generations and those to come. We must listen to the people who fish the sea, harvest the forest, till the soil, and mine the earth, as well as to those who advance the conservation, protection, and preservation of the environment.”

In an other Lutheran document²⁰ there are references to the need to change our habits, thus to turn towards earlier traditions: “Therefore, we commit ourselves and call on member churches to

- challenge practices where the gifts of God for all are made into commodities in unjust and unnecessary ways, which especially impact the poor. This includes the privatization of water and all other natural resources that are basic for human life and the patenting of seeds for crops and of other living organisms
- become more eco-centric in order to live more in harmony with nature. We have much to learn from Indigenous peoples and other traditions and what they have to teach us about our participation in and preservation of nature...”

In our journey towards East, we should not forget Islam, with similar references as Christianity. In his essay²¹ Frederick M. Denny wrote: „Islam does understand the earth to be subservient to humankind but it should not be administered and exploited irresponsibly. There is a strong sense of the goodness and purity of the earth. Clean dust may be used for ablutions before prayer if clean water is not available. The Prophet Muhammad said that: “The earth has been created for me as a mosque and as a means of purification.” So there is a sacrality to the earth which is a fit place for human’s service of God, whether in formal ceremonies or in daily life.”

And now we turn towards some of those Asian religions, which are famous for their environmental considerations. We do not have too much information

¹⁹ *Caring for Creation: Vision, Hope and Justice* (Social Statement of the Evangelical Lutheran Church in America, third Churchwide Assembly on August 28, 1993, at Kansas City, Missouri)

²⁰ Message of the Tenth Assembly of the Lutheran World Forum (Winnipeg, Canada, 21 to 31 July 2003)

²¹ Islam and Ecology: A Bestowed Trust Inviting Balanced Stewardship, Frederick M. Denny, University of Colorado. The article was originally published in *Earth Ethics* 10, no.1 (Fall 1998) and now we may have access to it: <http://environment.harvard.edu/religion/religion/islam>

about Confucianism and ecology, but according to experts²² it would probably be better to learn more on this issue: „Within this broad cosmological pattern of Confucian thought the person is seen in relationship to others and not as an isolated individual. Thus there are more grounds in Confucianism for emphasizing the common good which is critical for developing environmental ethics. Western traditions tend to underscore the importance of the individual, highlighting her/his rights and freedoms. The Confucian tradition stresses the importance of cooperative group effort so that individual concerns are sublimated to a larger sense of the common good. In this view, self-interest and altruism for a common cause are not mutually exclusive, and responsibilities rather than rights are stressed. Such a communitarian value system may be indispensable for fostering sustainable communities.”

Hinduism is mostly known after the activity of Ghandi, who was famous for his way of simple living through the principles of nonviolence (*ahimsa*) and holding to truthfulness (*satyagraha*), and also Hindu population lives close to nature – “With appreciation and acknowledgment of the five great elements, with a new interpretation of social duty (*dharma*) expanded to include the ecological community, and with remembrance of its ethic of abstemiousness, the Hindu tradition can develop new modalities for caring for the earth.”²³

Many people have some information on the environmental concept and traditions of Buddhism. “The concepts of *karma* and rebirth (*samsara*) integrate the existential sense of a shared common condition of all sentient life-forms with the moral dimension of the Buddhist cosmology. Not unlike the biological sciences, rebirth links human and animal species. ... In the view of the Thai monk, Buddhadasa Bhikkhu, “The entire cosmos is a cooperative. The sun, the moon, and the stars live together as a cooperative. The same is true for humans and animals, trees, and the earth. When we realize that the world is a mutual, interdependent, cooperative enterprise . . . then we can build a noble environment. If our lives are not based on this truth, then we shall perish.”²⁴

The different religions thus have some visible common roots, even if they believe in one God or in several gods and spirits – this common element is the responsibility towards nature and environment, which may be called guardian-

²² Confucianism and Ecology: Potential and Limits – Mary Evelyn Tucker, Yale University, This article was originally published in *Earth Ethics* 10, no.1 (Fall 1998), and now we may have access to it: <http://environment.harvard.edu/religion/religion/confucianism>

²³ Hinduism, Jainism, and Ecology – Christopher Key Chapple, Loyola Marymount University. This article was originally published in *Earth Ethics* 10, no.1 (Fall 1998), and now we may have access to it: <http://environment.harvard.edu/religion/religion/hinduism>

²⁴ Buddhism and Ecology: Challenge and Promise – Donald K. Swearer, Harvard University, This article was originally published in *Earth Ethics* 10, no.1 (Fall 1998), and now we may have access to it: <http://environment.harvard.edu/religion/religion/buddhism>

ship or may be governed by rebirth. Responsibilities and obligations are often emphasized, not like in present religious-like consumer societies which overestimate the value of rights and tend to forget responsibilities. Man should not only be the consumer of environmental resources, but should be a part of it, should take care for it. These common roots all using among others the principles of subsidiarity, participation, or even sustainability, which now are taken as ‘new’ principles of modern environmental policy and law.

IV. Some theoretical considerations

It is clear from the above summary that human behaviour has changed for the worst – at least from the point of view of respecting environmental values. Alexandre Kiss summarized this situation from the point of view of humanism²⁵: “l’écologie serait le contraire de l’humanisme que le monde confesse – et pratique si peu – depuis le XV^e siècle.” ... “Dans l’éclosion de maintes idées et la confusion qui en est résultée, la valorisation de éléments de l’environnement – de la destruction de paysages, de la raréfaction de l’eau propre, de l’air pur, d’animaux et de plantes sauvages – indiquait une nouvelle direction. Mais ce nouveau mouvement ne formulait pas de projets de société précis, ne revendiquait pas de nouvelles formes de société.” ... “Une réflexion approfondie sur ces problèmes fondamentaux pourrait mener, comme cela s’est produit aux 15^e et 16^e siècles, à un nouvel essor de notre pensée, donc à un nouvel humanisme.”

If the core element of present environmental degradation is the behavioural aspect or in other words, cultural or social aspect, then the new Humanism is really a must. Within this new humanism, traditions, as sources of knowledge – among others local or indigenous knowledge – have a vital role to play, and should again form a part of governance. Via traditions environmental perceptions may be better recognised.

The Fifth Environmental Action Programme of the European Community²⁶ may be mentioned here, first of all Chapter 8 (Subsidiarity and Shared Responsibility), the essence of which: “Since the objectives and targets put forward in the Programme and the ultimate goal of sustainable development can only be achieved by *concerted* action of all the relevant actors working together in partnership, the Programme combines the principle of subsidiarity with the wider concept of *shared responsibility*.” This would mean, reads the Programme later, “the mixing of actors and instruments at the appropriate levels”.

²⁵ Alexandre Kiss: Ecologie et Humanisme, see: www2.vo.lu/homepages/fce/ECOHUMAN.HTM

²⁶ The whole preparatory document – ‘Towards Sustainability’ – has been published in the Official Journal, C138/5, 17.5.93

Of course, this idea is mostly related to the EC actions, which is even more visible from the wording of the revision of the Programme²⁷, but the immense idea within the approach is much broader and reflects the need of conceptual changes – several level of actors, several level of responsibilities and rights, cooperation is a must, everybody has to be part of it.

The Center for International Environmental Law²⁸ also addresses the problem from the point of view of responsibilities. The idea is called “Common but Differentiated Responsibilities (“CDR”)”. Of course, these ideas are focusing on the present problem of public participation and human rights, when saying: “The other meaning of “equitable sharing of benefits” relates to ensuring a fair economic return to those individuals or groups from whom genetic or other biological, intellectual, cultural or economic resources were obtained.”

CIEL points in its paper to UN documents, first of all to Principle 21 of the Stockholm Declaration which provides that “States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources, pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.”

It is now easy to come to the next conclusion of the UN conferences, such as the Agenda 21, Chapter 15 on the “Conservation of Biological Diversity”: “Governments ... should ... Recognize and foster the traditional methods and the knowledge of indigenous people and their communities...and ensure the opportunity for the participation of those groups in the economic and commercial benefits derived from the use of such traditional methods and knowledge...”

Finally, in the above mentioned CIEL paper, within ‘Recommendations’ the summary is the following: “Attaining sustainable development in a broad-based and structural manner will require much greater focus on efforts to attain environmental justice. ... The close and profound relationships that many local communities share with the environment must be respected and recognized. This will require creating holistic and integrated approaches that include the meaningful participation of directly affected individuals and constituencies, while simultaneously promoting rights to information and transparency. ... Encouraging sustainable lifestyles in overly consumptive societies is an abso-

²⁷ Decision No 2179/98/EC of the European Parliament and of the Council (OJ L275/1) Art. 9: Shared responsibility and partnership, speaking about Community policies and actions

²⁸ (CIEL) paper: ‘Human Rights, Environment, and Economic Development: Existing and Emerging Standards in International Law and Global Society’, Greg Maggio and Owen J. Lynch, November 15, 1997 – see: www.ciel.org/publications/olpaper3.html

lute imperative to ensuring that we achieve levels of development that can support the Earth's current and future populations and equitably address growing inequalities in material wealth and human well-being. Legal rights can help advance the cause of human rights, but they are not guarantees for the attainment of environmental justice and sustainable development. Legal rights need to be supported by accessible procedures, as well as good governance, political will, and effective implementation."

Environmental protection and traditions related to it had several roots in history. In the already quoted separate opinion of Vice-President Weeramantry (ICJ) we can read²⁹: "The notion of not causing harm to others and hence *sic utere tuo ut alienum non laedas* was a central notion of Buddhism. It translated well into environmental attitudes. "*Alienum*" in this context would be extended by Buddhism to future generations as well, and to other component elements of the natural order beyond man himself, for the Buddhist concept of duty had an enormously long reach."

And here we are back again: most of our 'new' environmental principles all have their own roots in history. 'New humanism' is nothing but the need to go back to the original responsibilities and rights of mankind, to the respect for nature and environment as methods of good governance. Remember our motto: "tradition is an ongoing reality".

V. Traditions within different international treaties

The question of international documents has already been mentioned – see, for example, Stockholm principles or on regional level the European Community – but as a part of legal theories. Here we examine the different treaties and other international documents, which refer either to indigenous issues or to traditions, as we are using both in our studies here.

It is better to study international documents in three groups as they focus on different underlying concepts: the group of human rights documents, the part on common heritage documents and finally the international environmental documents. As it becomes clear at the end, these groups mostly speak the same language, but from different points of view.

1. International human rights documents:

The first in this line is the *Universal Declaration of Human Rights*³⁰, which may be taken as our starting point, and general concept covering the main out-

²⁹ See footnote No. 3.

³⁰ Adopted and proclaimed by UN General Assembly resolution 217 A (III) of 10 December 1948.

line of the given area. In its Article 27 we may find some broad reference to traditions, but which is normally understood in the relationship with indigenous rights:

“(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.”

Article 15(1) (a) and (c) of the *International Covenant on Economic, Social and Civil Rights*³¹ may also be referred to, but again in a more indirect way:

“1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life; ...

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.”

This is mostly a reiteration of the Human Rights Declaration and is referred to mostly as a source of indigenous rights. Still we believe that most of the references to indigenous rights may be used in connection with traditions in general, therefore we may also use them as a starting point.

The *International Covenant on Civil and Political Rights*³² has been adopted together with the above mentioned Covenant and in its Article 27 refers more directly to minority rights, again with an orientation to indigenous rights. This is a rather narrow approach as compared with the concept of traditions in general – for example, there is less reference to practices and skills, which are taken up later by other documents -, but still may be used as basis: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”

We do not discuss other general human rights documents, but focus on issues, which may be employed for environmental traditions. As the whole human rights arena mostly covers indigenous rights in this respect, we also focus on them. In connection with indigenous rights there is one specific recent document, the *UN Declaration on the Rights of Indigenous Peoples*³³, which may also be relevant here, as the provisions of the Declaration shall also be used

³¹ Adopted by UN General Assembly resolution 2200A (XXI) of 16 December 1966

³² Adopted by UN General Assembly resolution 2200A (XXI) of 16 December 19

³³ The Declaration has been adopted on the 29th of June 2006 by the Human Rights Council

directly in relationship with traditions. Article 11 of the Declaration reads: “1. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature. “

The core dilemma may be here, what shall be taken as cultural tradition and custom. In the perception of the present study, environmental traditions may also be taken as cultural traditions, as the second sentence is not exclusive and also in the light of further articles of the same Covenant, which are now directly connected with nature resource management or environment. Article 31 is more straightforward in this respect: “1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.” These words may well be recognised as listing most of the elements of environmental traditions, even in excess of indigenous rights.

Article 32 is connected with resource management as a part of self-determination of indigenous communities, and this may complete our view on environmental traditions, also with references even to public participation:

“1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of their mineral, water or other resources.”

Thus there is a close relationship with the expressions and right of environmental traditions and the rights of indigenous peoples, and the latter may well be extended to the former.

2. *International documents on common heritage*

The first of this kind was the *Convention Concerning the Protection of the World Cultural and Natural Heritage*³⁴. Unfortunately this convention does not deal too much with the environmental traditions under the heading of natural heritage. The Convention focuses more under the heading of cultural heritage on monuments, buildings, pieces of art, etc.³⁵ on the one hand and on the other hand under the heading of natural heritage the centre of attention is the visible or tangible part of that heritage³⁶. What is extremely important for this type of heritage is stated in Article 6: “such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to cooperate.”

There are no real direct requirements related to our main topic in this Convention, but still, at least the terminology is important, plus the reference to aesthetic values and an indirect reference to future generations embodied in the expression of world heritage. In terms of our vision on environmental traditions, the best would be to put the two basic definitions together in order to come closer to our purpose.

During the next decades it proved to be necessary to consider other values than tangible ones, and the outcome was thirty years later the *Convention for the Safeguarding of the Intangible Cultural Heritage*³⁷. Here we may find those references, which are missing from the original common heritage convention. The preamble is clear in this respect: “*Recognizing* that communities, in particular indigenous communities, groups and, in some cases, individuals, play an important role in the production, safeguarding, maintenance and recreation of the intangible cultural heritage, thus helping to enrich cultural diversity and human creativity, ...”

The initial question here is to understand what intangible cultural heritage means: “the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of

³⁴ Paris, 16, november 1972, UNESCO

³⁵ Article 1: For the purpose of this Convention, the following shall be considered as "cultural heritage": monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;

³⁶ Article 2: For the purposes of this Convention, the following shall be considered as "natural heritage": natural features consisting of physical and biological formations ...; geological and physiographical formations and precisely delineated areas which constitute the habitat; natural sites or precisely delineated natural areas ...

³⁷ Paris, 17 October 2003, UNESCO

their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity.” (Art. 2. par.1)

Par. 2 of Article 2 clarifies the most common ways how this intangible cultural heritage is manifested, and from our point of view we may draw attention to social practices, or even better to knowledge and practices concerning nature and the universe from the illustrative list. In Art. 1 the purposes of the Convention are listed, thus to safeguard, to ensure respect for, to raise awareness and finally to provide for international cooperation and assistance. Environmental traditions thus should form an essential part of this intangible cultural heritage, being indigenous or other traditions, thus the Convention should be taken as such which provides the framework for the protection, respect and maintenance of any such traditions.

The Convention in its subsequent articles provides for some framework of action, the most important example of which is Art. 14. – education, awareness-raising and capacity-building. The whole article focuses on the disclosure, transfer and further distribution of knowledge, information, embodied in the elements of intangible cultural heritage, requiring an active participation of states and the international community.

There are also some important references in the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*³⁸ to our main subject matter, as this Convention follows the line of the previous one. Also the different values – culture, intangible heritage, sustainable development, etc. – are clearly forming the basis of a holistic approach. The preamble is characteristic in this respect:

“*Being aware* that cultural diversity creates a rich and varied world, which increases the range of choices and nurtures human capacities and values, and therefore is a mainspring for sustainable development for communities, peoples and nations,

Recognizing the importance of traditional knowledge as a source of intangible and material wealth, ... and its positive contribution to sustainable development, ...”

This clear connection is missing a bit from the Art. 1, on the objectives, but much more visible in Art. 2, in the field of principles, mostly in connection with sustainable development and its relationship with intangible – or in this

³⁸ UNESCO, Paris, 20 October 2005

Convention: cultural – heritage or expression of values. Here there are two principles from the list of guiding principles of Art. 2:

“5. Principle of the complementarity of economic and cultural aspects of development

Since culture is one of the mainsprings of development, the cultural aspects of development are as important as its economic aspects, which individuals and peoples have the fundamental right to participate in and enjoy.

6. Principle of sustainable development

Cultural diversity is a rich asset for individuals and societies. The protection, promotion and maintenance of cultural diversity are an essential requirement for sustainable development for the benefit of present and future generations.”

Several environmental considerations could be pointed out in the above principles: material and immaterial elements of the development are equally important, the significant role of public participation, sustainable development is the framework for action, the specific role of future generations. All should be taken as the basic constituents of any kind of development and environmental policies. One more element, the role of integration is missing from the list, but one may easily find it later in the Convention, in Article 13 – integration of culture in sustainable development: “Parties shall endeavour to integrate culture in their development policies at all levels for the creation of conditions conducive to sustainable development ...”

More or less the same ideas are reflected in the Council of Europe *Framework Convention on the Value of Cultural Heritage for Society*³⁹. This Convention also begins with the broad reference to development goals and trends – Art. 1, par. c) reads as follows: “emphasise that the conservation of cultural heritage and its sustainable use have human development and quality of life as their goal;” Of course, this development must be a sustainable development, as mentioned in par. d) of the same article. This Convention also wishes to create a careful balance between rights and responsibilities related to cultural heritage – while Art. 1, par. a) recognises the rights relating to cultural heritage, par. b) recognises individual and collective responsibility towards cultural heritage.

There is a separate article on environmental issues within the Convention, which is a good composite of different values, reflecting the need of integration – Article 8: Environment, heritage and quality of life:

“The Parties undertake to utilise all heritage aspects of the cultural environment to:

³⁹ Faro, 27, October, 2005

- a) enrich the processes of economic, political, social and cultural development and land-use planning, resorting to cultural heritage impact assessments and adopting mitigation strategies where necessary;
- b) promote an integrated approach to policies concerning cultural, biological, geological and landscape diversity to achieve a balance between these elements;
- c) reinforce social cohesion by fostering a sense of shared responsibility towards the places in which people live;
- d) promote the objective of quality in contemporary additions to the environment without endangering its cultural values.”

More or less the same or similar elements are mentioned in Art. 8, with some additional new ones, such as the role of cultural heritage impact assessment.

Finally, we may finish our tour in the Convention terminology and provisions with Article 9 on sustainable use of the cultural heritage, a kind of converse idea of the role of cultural heritage in sustainable development. Traditions, traditional issues are also covered – such as in par. d): “promote the use of materials, techniques and skills based on tradition, and explore their potential for contemporary applications;...”

3. International environmental documents

There is also a close connection between traditions, traditional knowledge and environment in Principle 22 of the Rio Declaration on Environment and Development⁴⁰, but still the main concern here is indigenous people, although local communities are also covered: “Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.”

If we look now at the international conventions related to environmental issues, then probably the best example from the same year of 1992 is Article 8(j) of the Convention on Biological Diversity⁴¹:

“Each Contracting Party shall, as far as possible and as appropriate: ...

(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying

⁴⁰ UN Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992

⁴¹ Concluded at Rio de Janeiro on 5 June 1992, No 30619

traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;...”

The ideas, taken up here, are predominantly similar to those international conventions, mentioned above, with a slight difference – that is the focal point, which is biological diversity.

There are also some references in the text of the *European Landscape Convention*⁴². This Convention is also associated with the chief idea of common heritage, as for example in the preamble there are references to it, together with the need of sustainable development, European identity and other foundations of traditions. The preamble explains the key connection between landscape and human life: “Acknowledging that the landscape is an important part of the quality of life for people everywhere: in urban areas and in the countryside, in degraded areas as well as in areas of high quality, in areas recognised as being of outstanding beauty as well as everyday areas;...”

According to Article 5 – General measures – it is possible to find the direct link between landscape and human activities, human behaviour such as traditions. Here there are again those considerations of environmental protection activities, which are commonly accepted, as the establishment of policies, plans, procedures for public participation, the imperative role of integration.

Summing it all up, there are references within the different types of international conventions to traditions and their important role in cultural diversity, protecting common heritage, within which intangible or immaterial heritage. All is connected somehow with the broad idea of sustainable development. Transfer of knowledge is a core element, while there are several substantive and procedural conditions, such as the reflection of property rights or the conditions of public participation. We may easily extend the image of the Biodiversity Convention, leaving out the references to indigenous people in a way that “local communities have a vital role in environmental management and development because of their knowledge and traditional practices.”

⁴² Council of Europe, Florence, 2000

Conclusions

Traditions are behavioural regulations – thus they have similar characteristics as ethics or law – developed through history and time, responding to the different situations, within which environmental or it is better to say, natural resource management issues have always received great attention. As the motto says, traditions are not old forgotten melodies of the past, but in many cases they are still living and they may easily be used either directly or through the experiences accumulated in them. Thus traditions are vital resources of present and future generations.

As we have already underlined, transfer of knowledge and information is the core element of traditions, covering customs, behavioural elements, practices – being religious or secular -, the major *raison d'être* of which is to govern people, groups of people, nations, societies. In the present paper the definition of “indigenous traditional knowledge” has been quoted from Michael Dodson, which may easily be used for traditions in general: “the traditional practices, culture, knowledge of plants and animals and knowledge of their methods of propagation; it includes expressions of cultural values, beliefs, rituals and community laws and it includes knowledge regarding land and ecosystem management.” Consequently, there is no use to make a real distinction between indigenous traditions and common traditions.

The different communities often possess valuable knowledge and among others, mechanisms for the management of environmental resources. Traditions are extremely important, if we understand that at the roots of environmental problems we may find cultural and social deficiencies, new and bad habits, new and bad way of life (overestimation of consumer society and others). The main problem here is that in the past one or two centuries mankind lost its close relationship with the environment, therefore lost also the understanding of different environmental situations, the sensitivity towards environmental problems.

One of the major sources of tradition is religion. The different religions have some common roots: this common element among others is the responsibility towards nature and environment. Ultimately the real owner of the universe is God (one or more) and mankind should act as *bonus et diligens paterfamilias*. Man should not be only the consumer of environmental resources, but should be a part of it, is responsible for the preservation of such resources. Interestingly enough, the different Judeo-Christian documents related to environmental traditions mostly point to legal principles, such as subsidiarity or the connection of generic human traditions and public participation.

As environmental problems are cultural or behavioural problems, new humanism is needed, as Alexandre Kiss has pointed out, which new humanism shall turn towards the original roots and use the original principles, which are very close or equal to old principles. Vice-President Weeramantry (ICJ) wrote: “Among those which may be extracted from the systems already referred to are such far-reaching principles as the principle of trusteeship of earth resources, the principle of intergenerational rights, and the principle that development and environmental conservation must go hand in hand. ... Sustainable development is thus not merely a principle of modern international law. It is one of the most ancient of ideas in the human heritage. Fortified by the rich insights that can be gained from millennia of human experience, it has an important part to play in the service of international law.”⁴³

Traditions are also an essential part of intangible cultural or common heritage, which – according to the Convention related to it – is “transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity.” More or less the same may be found in the preamble of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions – “*Recognizing* the importance of traditional knowledge as a source of intangible and material wealth, and in particular the knowledge systems of indigenous peoples, and its positive contribution to sustainable development, as well as the need for its adequate protection and promotion”.

Thus traditions, traditional knowledge deserves international and national protection through the legal measures, too. There are existing, historical legal principles and instruments and there are ‘new’ legal principles and instruments, which sometimes are only seemingly modern, but are based upon old traditions, which all may be used in our fight for keeping traditions, traditional knowledge alive, in order to be used as a source of knowledge. We already mentioned some or most of them and here there is a summary:

- principle of subsidiarity, reflecting the need to find the proper place for effective action;
- principle and practice of common and shared responsibility, based upon the need to live in communities;
- principle of trusteeship, or guardianship, in other words it is responsibility towards nature, natural resources and environment;

⁴³ See footnote No. 3.

- rights of future generations, as we represent a transitional period between past and future, and also the above principle of trusteeship requires us to give a chance for the following generations;
- participatory rights, along the lines of subsidiarity and shared responsibility;
- proper use of community property rights.

SUMMARY

Richness of Traditions – Environmental Traditions

GYULA BÁNDI

Our starting point is that traditions are still living regulatory systems which had dealt with such problems in the remote past that are nowadays considered new. The question is how do environmental rules appear in the realm of human traditions and how much attention do we pay to them in the present. Traditions have similar characteristics as law, namely to influence human behaviour; let it be customs, old-established practices of certain ethnic groups, religious or secular systems. The Vice-President's separate opinion on the 1997 ruling in the case of *Bős-Nagymaros* underlined the actual role of the seemingly modern concept of sustainable development in ancient cultures, on which modern environmental law may be based.

In this study we examine the practical examples of traditions relating to the environment, placing special emphasis on religious traditions which rediscover their moral responsibility with reference to creation. Human behaviour has changed for the worst in the past decades especially in relation to the protection of environmental values, thus it is necessary to focus on the positive features of human traditions in every possible way. This may be discerned in the concept of 'shared responsibility' in the Fifth Environmental Action Programme of the EC, in the principle of subsidiarity, and in the necessity to restrict sovereignty.

Therefore, international documents and, increasingly, conventions devote a greater attention to sustain and develop traditions, and preserve their message for the present. In examining conventions dealing with such issues, it may be noted that such a way of thinking is growingly present not just indirectly, but in a straightforward manner. We may start from conventions concerning the common heritage of mankind – which is not necessarily solely tangible in nature – and arrive at such aspects of environmental conventions which restate the ancient fundamentals of the responsible behaviour of mankind.

RESÜMEE

Der Reichtum der Traditionen – Umweltschutztraditionen

GYULA BÁNDI

Unser Ausgangspunkt ist, dass die Traditionen auch heute noch lebendige Regelungssysteme sind, die sich mit zahlreichen, heute als neu geltenden Problemen bereits vor etlichen Jahren beschäftigt hatten. Die Frage ist, wie die Umweltschutzregeln in der Welt der menschlichen Traditionen erscheinen, bzw. welche Beachtung wir diesen in der Gegenwart schenken. Die Traditionen haben dieselbe Rolle, wie das Recht: ihr Ziel ist die Beeinflussung des menschlichen Verhaltens, wobei es keine Rolle spielt, ob es um Sitten, um die gängige Praxis einzelner Volksgruppen, um religiöse oder weltliche Systeme geht. Das Gutachten des Vizepräsidenten, das dem Urteil des Internationalen Gerichtshofs aus dem Jahre 1997 in der Angelegenheit von Gabčíkovo-Nagymaros beigefügt wurde, hob die tatsächliche Rolle der neuartig erscheinenden Konzeption der nachhaltigen Entwicklung in den alten Zivilisationen hervor, auf die auch das heutige moderne Umweltschutzrecht aufbauen kann.

In der Studie untersuchen wir die praktischen Beispiele der mit der Umwelt in Verbindung stehenden Traditionen. Dabei setzten wir einen besonderen Akzent auf die religiösen Traditionen, die erneut die enge Bindung ihres eigenen ethischen Systems zur Verantwortung gegenüber der vom Menschen geschaffenen Welt erkennen. Die Entwicklung des menschlichen Verhaltens schlägt in den vergangenen Jahrzehnten, insbesondere was den Schutz der Umweltwerte betrifft, keine gute Richtung ein. Deshalb ist es notwendig, mit allen zur Verfügung stehenden Mitteln auf die Wichtigkeit der positiven Züge der ebenfalls menschlichen Gewohnheitssysteme hinzuweisen. Dies spiegelt sich in der Konzeption der „geteilten Verantwortung“ des 5. Aktionsprogramms der EG für Umweltschutz, in der Subsidiarität und der Notwendigkeit der Einschränkung der Souveränität wider.

Auf diese Weise erreichen wir auch, dass die internationalen Dokumente, und dann mit der Zeit auch die Reihe der Abkommen, der Entwicklung, Förderung der Traditionen und der Bewahrung der in die Gegenwart weisenden Botschaften dieser ihre besondere Aufmerksamkeit schenken. Untersuchen wir die diesbezüglichen Abkommen, so finden wir immer mehr solche, in denen eine Denkweise, die in diese Richtung weist, nicht nur auf indirekte, sondern auch auf direkte Weise präsent ist. Wir können von den Abkommen ausgehen, die mit dem gemeinsamen – nicht nur materiellen – Erbe der Menschheit in Verbindung stehen, und können bei den derartigen Aspekten der Umweltschutzabkommen ankommen, die die auf Jahrtausende zurückblickenden Grundlagen des verantwortungsvollen Verhaltens des Menschen aufleben lassen.