



100 名法学家

呼吁通过《世界环境公约》

Paris October 9, 2018

2018 年 5 月 10 日，联合国大会以压倒性多数通过了一项决议，为《世界环境公约》的谈判铺平了道路。该国际条约将指导环境保护行动的主要法律原则汇集在一个文本中。三十多年来，从 1987 年的《布伦特兰报告》到 1995 年世界自然保护联盟的公约草案，再到 2017 年由约 100 名来自南北半球 40 个不同国家和各法学领域的法学专家组成的专家组编写的草案，国际法律界一直呼吁各国通过这样的案文。

2015 年通过的可持续发展目标和《巴黎气候协定》为环境保护创造了新的全球动力。这些案文标志着重大的进展。然而，环境破坏的现象仍然存在，甚至是前所未有的严重。2017 年和 2018 年的气温创下历史新高。生物多样性持续快速恶化。有必要迈出新的一步。除气候问题外，还需要制定更全面的法律案文，确定全球环境治理的指导原则。

根据《世界环境公约》，国际社会将首次制定一项涵盖所有环境领域的一般性条约。作为国际环境法的基石，《世界环境公约》是一个“总括性案文”，可以与现有各领域的条约（气候、生物多样性、废物、污染等）之间建立联系。《世界环境公约》无意取代这些条约。相反，它旨在补充这些条约并促进它们的实施。由于《世界环境公约》与这些条约互相兼容，前者可以填补后者的空白之处或逐渐与之相适应，以提高这些公约的效力和效率。

关于其内容，这项新条约能够反映世界上大多数宪法的通用原则，这些通用原则被应用于重要的国际案文，但不具备法律价值，如 1982 年的《世界大自然宪章》或 1992 年的《里约宣言》。作为基础，《世界环境公约》通过系统地收集大多数国家现有的国际条款、宪法条款和立法规定，使所有参与环境治理的主体受益。每个国家的立法机构都可以在其中找到参考，以通过环境保护力度更大的法律。基于法官之间的讨论，最高法院可以从中汲取共同的灵感，以此来稳固全球环境法的基础。公民和非政府组织的环境权利将得到加强。企业将得益于游戏规则的全球统一，这也将增强法律的确定性，并有利于公平竞争。

今年是 1948 年《世界人权宣言》颁布 70 周年，同时距离 1966 年通过的两项国际公约（一项与公民权利和政治权利相关，另一项与经济、社会和文化权利相关）也有 50 余年，现在正是迈出国际法历史新篇章的时刻。这就是我们呼吁通过第三项公约的原因，它代表了新时代的基本原则：与保护环境有关的权利和义务。

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