

# 法学者 100 人の呼びかけ 世界環境憲章の採決

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2018 年 5 月 10 日、国連総会では大多数の賛成を得て、世界環境憲章の交渉に道を広げる議決が採択されました。この国際条約は、環境行動の指針となる主要な法的原則を一つの条文にまとめるものです。30 年以上前から、国際法学者グループは国家に対し、1987 年のブルントラント・レポート、1995 年の IUCN の条約草案、そして、40 カ国の先進国や開発途上国、また、法的伝統に従う法律者で構成される約 100 人の専門家グループにより 2017 年に練り上げられた草案に至るまで、このような条約を採択するよう呼びかけています。

2015 年、持続可能な開発目標と気候変動に関するパリ協定が採択されたことにより、環境保護に対して、世界的な勢いがより一層強まりました。これらの条文は、大きな進捗を意味します。しかしながら、環境破壊は継続し、以前にも増して深刻になっています。2017 年と 2018 年には過去にない最高気温を記録しました。生物多様性は急激に減少し続けており、新たなステージへと進むことが不可避となっています。気候変動問題に加えて、グローバル環境ガバナンスに関する指導原則をより包括的に定める必要性があります。

世界環境憲章で、国際社会は初めて環境保護全体を扱う一般的性質を持つ条約を採択することになります。国際環境法の基盤として、憲章は既存の異なる分野（気候、生物多様性、廃棄物、汚染など）の条約を結び付ける「アンブレラ文書」を作成します。憲章がこれらの条約と置き換わるわけではありません。反対に、それらを補完し、その実現を促進することを目的としています。また、不備を是正し、矛盾がない場合、それらと併せて適用させ、より一層有効性や効果を高めることが可能となります。

内容に関しては、1982 年の世界自然憲章や 1992 年の環境と開発に関するリオ宣言のように、法的拘束力はありませんが、この新たな条約は世界の大多数の法律との共通原則を持ち、一部の重要な国際条約で認定されている原則が反映されています。既に多くの国々に存在する国際的、立憲的、立法的な規定を最低限の枠組みとして体系的に取りまとめることは、環境ガバナンスに関わるすべての人々に恩恵をもたらします。各国家において、立法機関は環境保護に関する法の可決に関するリファレンスを見出せるでしょう。最高裁判所は、裁判官同士の対話を通して、環境に関する包括的な法律の基盤を強化するための共通の着想を引き出せるでしょう。市民や NGO は、強化された環境権の証人となり、各企業は、より大きな法的安全性と公正な競争条件を促進する世界規模での規則の調和を活用することが可能となります。

1948 年の世界人権宣言から 70 年、1966 年に採択された市民的および政治的権利に関する国際規約と経済的、社会的および文化的権利に関する国際規約という 2 つの国際条約から 50 年が経ち、今、国際法の歴史の中で、新たな一步を踏み出す時がきています。それゆえ、私たちは、「環境保護に関する権利と義務」という新しい世代の基本原則を掲げた第 3 の憲章の採択を求めます。

## Signatories:

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