

Pace Environmental Law Review

Volume 32
Issue 2 *Reconceptualizing the Future of
Environmental Law*
Spring 2015

Article 11

April 2015

The Declaration of Interdependence: A New Declaration to Overthrow the Tyranny of Small Decisions and Achieve Sustainability

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Recommended Citation

Phillip M. Kannan, *The Declaration of Interdependence: A New Declaration to Overthrow the Tyranny of Small Decisions and Achieve Sustainability*, 32 Pace Envtl. L. Rev. 547 (2015)
Available at: <https://digitalcommons.pace.edu/pelr/vol32/iss2/11>

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ARTICLE

The Declaration of Interdependence: A New Declaration to Overthrow the Tyranny of Small Decisions and Achieve Sustainability

PHILLIP M. KANNAN*

*The United Nations Conference on Environment and Development [h]aving met at Rio de Janeiro from 3 to 14 June 1992 . . . Recogniz[es] the integral and interdependent nature of the Earth, our home.*¹

Two declarations are the foundation of modern international environmental law and policy: the Stockholm Declaration on the Human Environment² and the Rio Declaration on the Environment and Development.³ Both of these declarations include well-established principles of international environmental law and policy such as state responsibility,⁴ territorial sovereignty,⁵ the necessity of ecosystem protection,⁶ and the

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1. United Nations Conference on Environment and Development, Rio de Janeiro, Braz., June 3-14, 1992, *Rio Declaration on Environment and Development*, pmbl., U.N. Doc. A/CONF.151/26/Rev.1 (Vol. I), Annex 1 (Aug. 12, 1992), available at <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm> [hereinafter Rio Declaration].

2. United Nations Conference on the Human Environment, Stockholm, Swed., June 5-16, 1972, *Declaration of the United Nations Conference on the Human Environment*, U.N. Doc. A/CONF.48/14, available at <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=97&articleid=1503> [hereinafter Stockholm Declaration].

3. Rio Declaration, *supra* note 1.

4. *Id.* princ. 2; Stockholm Declaration, *supra* note 2, princ. 21.

5. See Rio Declaration, *supra* note 1, princ. 2; Stockholm Declaration, *supra* note 2, princ. 21.

6. Rio Declaration, *supra* note 1, princ. 7; Stockholm Declaration, *supra* note 2, princ. 4.

importance of international cooperation.⁷ In addition, they both embrace *revolutionary* ideas. For example, the Stockholm Declaration held out the possibility of a human right to a healthy environment⁸ and suggested the need to integrate economic development and social development with environmental protection,⁹ which is the seed from which the concept of sustainable development grew.¹⁰ The Rio Declaration fully endorsed that concept¹¹ and included in it the principle of *equitable* rights of present and future generations,¹² the necessity of a *precautionary* approach to environmental protection,¹³ an *equitable polluter pays approach* through the principle of “common but differentiated responsibility,”¹⁴ and the necessity of eliminating unsustainable patterns of *consumption*¹⁵ if sustainable development is to be achieved.¹⁶

7. Rio Declaration, *supra* note 1, princ. 7; Stockholm Declaration, *supra* note 2, princ. 24.

8. Stockholm Declaration, *supra* note 2, princ. 1 (“Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being . . .”).

9. *See, e.g., id.* princ. 8 (“Economic and social development is essential for ensuring a favorable living and working environment for man . . .”).

10. *See generally* Rio Declaration, *supra* note 1.

11. *See, e.g.,* Rio Declaration, *supra* note 1, princ. 4 (“In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.”).

12. *See, e.g., id.* princ. 3 (“The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.”).

13. *Id.* princ. 15 (calling for the wide application of the precautionary approach and articulating it). *See generally* Phillip M. Kannan, *The Precautionary Principle: More Than a Cameo Appearance in United States Environmental Law?*, 31 WM. & MARY ENVTL. L. & POL’Y REV. 409 (2007) (discussing the inclusion of the precautionary principle in various environmental treaties and U.S. environmental laws and policies).

14. *See* Rio Declaration, *supra* note 1, princ. 7 (stating, in part, “in view of the different contributions to global environmental degradation, States have common but differentiated responsibilities” and acknowledging that the responsibilities are to protect the environment and to pursue sustainable development).

15. *Id.* princ. 8.

16. In this article the terms “sustainable development” and “sustainability” are used interchangeably and have the meaning given by the World Commission on Environment and Development, which is “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.” World Comm’n on Env’t & Dev., *Report of the World*

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The concept of sustainable development not only embraced revolutionary principles, it became one. Sustainability is frequently included in treaties in the field of international environmental law and policy. The following is a sample of its appearance in such treaties. The United Nations Framework Convention on Climate Change recognizes that the Parties “have a right to, and should, promote sustainable development.”¹⁷ The Kyoto Protocol to the United Nations Framework Convention on Climate Change specifies actions the Parties are to take to meet their obligations “to achieve sustainable development.”¹⁸ The Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks requires the adoption of “measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks.”¹⁹ The United Nations Convention on the Law of the Non-Navigable Uses of International Watercourses, in the preamble, expresses the conviction that the treaty is needed to ensure the protection of the “sustainable utilization [of international watercourses] for present and future generations.”²⁰ The Convention on Biological Diversity sets as its objective “the sustainable use of [the components of biological diversity].”²¹ And, finally, the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and

Commission on Environment and Development: Our Common Future, ch. 2, ¶ 1, U.N. Doc. A/42/427 (Mar. 20, 1987), available at <http://www.un-documents.net/our-common-future.pdf>. The World Commission on Environment and Development is commonly referred to as the Brundtland Commission.

17. United Nations Framework Convention on Climate Change art. 3, May 9, 1992, 1771 U.N.T.S. 107, 165 [hereinafter UNFCCC].

18. Kyoto Protocol to the United Nations Framework Convention on Climate Change art. 10, Dec. 10, 1997, 37 I.L.M. 22 (entered into force Feb. 15, 2005) [hereinafter Kyoto Protocol].

19. Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, art. 5, Aug. 4, 1995, 2167 U.N.T.S. 3 [hereinafter UNFSA].

20. Convention on the Law of Non-Navigable Uses of International Watercourses pmbl., May 21, 1997, 36 I.L.M. 300 [hereinafter CNUIW].

21. Convention on Biological Diversity pmbl., opened for signature June 5, 1992, 31 I.L.M. 818 [hereinafter Biodiversity Convention].

Sustainable Development of all Types of Forests states that one of its fundamental principles is “[f]orest resources and forest lands should be sustainably managed to meet the social, economic, ecological, cultural and spiritual human needs of present and future generations.”²²

And yet, the revolutionary idea of sustainable development, even with its broad inclusion in treaties, has not led to a revolution to protect global ecosystems and common concerns of humankind.²³ The concentration of greenhouse gases in the atmosphere continues to rise,²⁴ the risks from global climate change continue to increase,²⁵ species continue to go extinct at record rates,²⁶ desertification continues to increase,²⁷ dead zones

22. United Nations Conference on Environment and Development, Rio de Janeiro, Braz., June 3-14, 1992, *Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests*, U.N. Doc. A/CONF.151/26 (Vol. III), Annex III (June 14, 1992) [hereinafter Statement of Forest Principles].

23. See INT'L UNION FOR THE CONSERVATION OF NATURE AND NATURAL RES., DRAFT INTERNATIONAL COVENANT ON ENVIRONMENT AND DEVELOPMENT 40 (2010) (A “common concern of humankind” is a natural resource which is “an irreplaceable part of the Earth’s natural system which must be conserved for the good of mankind” (quoting Bonn Convention on the Conservation of Migratory Species of Wild Animals)), available at <https://portals.iucn.org/library/efiles/documents/EPLP-031-rev3.pdf>. This concept was adopted in UNFCCC, *supra* note 17, at 2 (“Acknowledging that change in the Earth’s climate and its adverse effects are a common concern of humankind.”) and Biodiversity Convention, *supra* note 21, at 1 (“Affirming that the conservation of biological diversity is a common concern of humankind.”). See also DAVID HUNTER, JAMES SALZMAN & DURWOOD ZAELKE, INTERNATIONAL ENVIRONMENTAL LAW AND POLICY 398 (2d ed. 2001) (The principle of common concern of human kind may be applicable “to activities or resources [such as a rainforest] considered wholly within the sovereign control of individual States.”).

24. Matt McGrath, *China’s Per Capita Carbon Emissions Overtake EUs*, BBC NEWS, Sept. 21, 2014, <http://www.bbc.com/news/science-environment-29239194> (referring to and providing a link to a Global Carbon Project report) (“The latest data shows that a *record* 36 billion tonnes of carbon from all human sources were emitted in 2013” (emphasis added)).

25. *Id.* (“[S]cientists say the global totals are increasing fast and will likely exceed the limit for dangerous climate change within 30 years.”).

26. S.L. Pimm et al., *The Biodiversity of Species and Their Rates of Extinction, Distribution, and Protection*, 344 SCI. 987, 989 (2014), available at <http://www.sciencemag.org/content/344/6187/1246752.full.pdf> (“[P]resent extinction rates are likely a thousand times higher than the background rate . . .”).

27. UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION, DESERTIFICATION: A VISUAL SYNTHESIS 13 (Yukie Hori et al. eds., 2011), available

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in the oceans continue to grow,²⁸ women²⁹ and the poor³⁰ continue to be disproportionately harmed by environmental degradation, and the condition of fish stocks continues to worsen,³¹ but there is no uprising among the people of the world demanding that sustainability not only be in the vocabulary of diplomats to be used in treaties but also in the toolkits of economists, engineers, scientists, sociologists, lawyers, and other professionals to be applied to actually implement the treaties.

Although there have been no uprisings among the people of the world, there is recent evidence of their discontent with the present failures of their governments to reduce the risks to global ecosystems and common concerns of humankind. For example, the New York Times gave the following description of mass demonstrations throughout New York on September 21, 2014:

Legions of demonstrators [including former Vice President Al Gore and United Nations Secretary General Ban Ki-moon] frustrated by international inaction on global warming descended on New York City on Sunday, marching through the heart of Manhattan with a message of alarm for world leaders set to

at <http://issuu.com/zoienvironment/docs/desertification-exec-> (“[B]etween 1981 and 2003 24 per cent of the land has been degraded globally.”).

28. EPA, MOVING FORWARD ON GULF HYPOXIA 14 (2008), *available at* http://water.epa.gov/type/watersheds/named/msbasin/upload/2008_6_9_msbasin_ghap2008_sec2.pdf (“In 2007, the measured size of the hypoxic zone was 20,500 square kilometers [7,900 square miles] about the size of Massachusetts, the third largest hypoxic zone since measurements began in 1986”).

29. UNITED NATIONS POPULATION FUND, STATE OF WORLD POPULATION 2001, 37-41 (2001), *available at* http://www.unfpa.org/sites/default/files/pub-pdf/swp2001_eng.pdf (“In urban settings in particular, air and water pollution can be extreme, and sanitation and waste treatment poor or non-existent, presenting new threats to health, particularly for women, who have the highest levels of exposure.”).

30. *Id.* at 29-36 (“Rapid population growth in the last 50 years has doubled and redoubled poor rural populations, faster than their ability to adapt. Their resource base has been sharply reduced by overuse and commercial exploitation. Without a surplus for investment, the technologies available to poor rural populations have also remained unchanged.”).

31. UNITED NATIONS FOOD AND AGRICULTURE ORGANIZATION, GENERAL SITUATION OF WORLD FISH STOCKS, *available at* <http://www.fao.org/newsroom/common/ecg/1000505/en/stocks.pdf>. (“[O]f the 600 marine fish stocks monitored by FAO: . . . 52% are fully exploited, 17% are overexploited, 7% are depleted . . .”).

gather this week at the United Nations for a summit meeting on climate change.³²

Similar rallies with the same message took place in cities around the world.³³

These expressions of discontent and dissatisfaction with the progress by their governments on international environmental problems are not new.³⁴ Just before the start of the United Nations Conference on Environment and Development in 1992, the renowned scholar, diplomat, and politician Sir Geoffrey Palmer observed:

Most members of the global public consider preservation of life here a sound idea. There is a political imperative driving environmental diplomacy. It is the rising level of consciousness *among people everywhere* of the serious nature of the global environmental problems. One can feel it in the air at the increasingly numerous international conferences held on the subject. Governments are eager to be seen as taking a constructive stance. It is time to translate that attitude into action.³⁵

Palmer's call to action has been ignored for over twenty-two years.³⁶

I believe that what is needed "to translate that attitude into action"³⁷ and move from rallies expressing discontent to a revolution aimed at mitigating the trends mentioned above³⁸ is the *recognition* by the people of the world that we are all the victims of the same tyranny; that is, that we all have a common

32. Lisa W. Foderaro, *Taking a Call for Climate Change to the Streets*, N.Y. Times, Sept. 22, 2014, at A1 (including an estimate of the crowd at 311,000).

33. See, e.g., Laura Westbrook, *Climate Change Summit: Global Rallies Demand Action*, BBC NEWS, Sept. 21, 2014, <http://www.bbc.com/news/science-environment-29301969> ("[H]uge demonstrations took place in Australia and Europe").

34. See Geoffrey Palmer, *New Ways to Make International Environmental Law*, 86 AM. J. INT'L L 259 (1992).

35. *Id.* at 283 (internal references omitted) (emphasis added).

36. *Id.* at 259.

37. *Id.* at 283.

38. See generally *supra* notes 24-44 and accompanying text; see generally *infra* notes 39-43 and accompanying text.

enemy. Disparate groups suffering under the same tyranny can unite to bring it to an end, but first they must recognize and acknowledge their common fate, and then the invisible forces that empower the shared tyranny and their origins must be laid bare and understood by the victims. This article is intended to accomplish these tasks.

The common enemy suppressing sustainability and the sources of its power are well known and well studied by many professionals in the field of development, but not well explained to the billions of people outside that group. The common enemy of sustainability is known as the tyranny of small decisions. As more fully explained below,³⁹ this dynamic oppresses the individuals in a group who are being harmed by a condition that no one of them has the power to change, but that could be changed if the individuals acted in concert.

A special case of the tyranny of small decisions,⁴⁰ known as the Tragedy of the Commons, was popularized in an article by Garrett Hardin.⁴¹ In the classic explanation of the Tragedy of the Commons, Garrett Hardin analyzed the fate of the Commons, namely a pasture, which was open to all herdsmen. In this example, each herdsman, in deciding whether to continue to add cattle to the pasture, considers only the net benefit to himself or herself and always concludes that it is advantageous to increase his or her herd because all the profit accrues to the herdsman while the costs are externalized.⁴² The consequence is destruction of the pasture, which is a tragedy for all.⁴³ Hardin then pointed out that the “logic of the commons” is applicable to other processes such as taking resources from the oceans and the emission of pollution into the atmosphere.⁴⁴ For example, each

39. See, e.g., *infra* notes 50-65 and accompanying text.

40. William J. Cohen, *Private Property and the Takings Issue: Enhancing the Position of Ecological Values in the Supreme Court's Constitutional Calculus*, 28 J. ENVTL. L. & LITIG. 303, 327 (2013) (calling the Tragedy of the Commons a corollary to the tyranny of small decisions).

41. See generally Garrett Hardin, *The Tragedy of the Commons*, 162 SCI. 1243 (1968) (arguing that common-pool resources open to anyone to enter and use—these are the conditions that define the special case—are likely to be overused and destroyed).

42. *Id.* at 1244.

43. *Id.* at 1244.

44. *Id.* at 1244-45.

fisherman, in deciding whether to add boats, will consider only the net profit to him or herself resulting from the externalization of the costs. All of these examples involve the common dynamic of individual decision-making with no cooperation or collective action among the decision makers. They have the defining characteristics of a common pool resource with open access.⁴⁵ There are numerous such examples in which a game theory approach can be applied to identify optimal solutions.⁴⁶ Applying a game theory approach only to common pool resources with open access is an unnecessary limitation on insights this methodology can provide for other environmental problems.⁴⁷ As explained more fully below, the tyranny of small decisions is operative in settings in which one or both of these characteristics is absent as well as in cases in which both are present.⁴⁸

An intuitive understanding of the tyranny of small decisions and how it differs from the tragedy of the commons can be gained by considering a quotation from Abraham Lincoln: “the legitimate object of government, is to do for . . . people, whatever they need to have done, but can not do . . . for themselves.”⁴⁹ The operative word in this quote is *cannot*. Consider two examples: the establishment of a safe pesticide program for the United States and the establishment of a safe airline system. If these activities were left to individuals, each activity would develop into a tyranny, that is, each would become an oppressive and harmful

45. See, e.g., Elinor Ostrom, *The Challenge of Common-Pool Resources*, ENVIRONMENT: SCIENCE AND POLICY FOR SUSTAINABLE DEVELOPMENT, July-Aug. 2008, available at <http://www.environmentmagazine.org/Archives/Back%20Issues/July-August%202008/ostrom-full.html> (“In his classic article on “the Tragedy of the Commons,” Garrett Hardin confused open access commons with those that are the joint property of a community[.]”).

46. See, e.g., Hardin, *supra* note 41, at 1245 (giving the examples of overuse of National Parks, overfishing in the high seas, excessive pollution of rivers, and over pollution of ambient air); see generally Ostrom, *supra* note 45 (giving the examples of overuse of fisheries, forests, irrigation systems, groundwater basins, pastures and grazing systems, lakes, oceans, and the Earth’s atmosphere).

47. See, e.g., Richard H. McAdams, *Beyond the Prisoners’ Dilemma: Coordination, Game Theory, and Law*, 82 S. CAL. L. REV. 209, 210 (2009) (pointing out that insights into other problems can be achieved by applying a game theory approach).

48. See *infra* notes 64-65 and accompanying text for examples.

49. CARL SANDBURG, ABRAHAM LINCOLN: THE PRAIRIE YEARS AND THE WAR YEARS 72 (Edward C. Goodman ed., 2007) (1954).

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force for the people because the individuals *do not have the power* to make these systems safe. In the language of Lincoln, they *cannot do it for themselves*. The same conclusions would follow if these activities were left to the counties or the states. The decisions by individuals, counties, and states would be *small decisions* because they rest on power that is not coextensive with risk.

The dynamics of the tyranny of small decisions have been understood at least since 1909 when they were analyzed by John Stuart Mill. He stated the general principle as follows:

There are matters in which the interference of law is required, not to overrule the judgment of individuals respecting their own interest, but to give effect to that judgment: they being unable to give effect to it except by concert, which concert again cannot be effectual unless it receives validity and sanction from the law.⁵⁰

Mill considered the hypothetical example of reducing the hours of labor as follows:

Let us suppose . . . that a general reduction of hours of factory labour, say from ten to nine, would be for the advantage of the workpeople: that they would receive as high wages, or nearly as high, for nine hours' labour as they receive for ten. If this would be the result, and if the operatives generally are convinced that it would, the limitation, some may say, will be adoption spontaneously. I answer, that it will not be adopted unless the body of operatives bind themselves to one another to abide by it. A workman who refused to work more than nine hours while there were others who worked ten, would either not be employed at all, or if employed, must submit to lose one-tenth of his wages. However convinced, therefore, he may be that it is the interest of the class to work short time, it is contrary to his own interest to set the example, unless he is well assured that all or most others will follow it.⁵¹

50. JOHN STUART MILL, *PRINCIPLES OF POLITICAL ECONOMY* 963 (William J. Ashley ed., London, Longmans, Green, and Co. 7th ed. 1909) (1848), *available at* <http://www.econlib.org/library/Mill/mlP73.html>.

51. *Id.*

Mill's analysis cogently captures the forces that underlie the tyranny of small decisions: A group of individuals being disadvantaged by a condition that applies to all of them; the individuals in the group understanding that the condition could be changed to their mutual benefit; the power of each individual being limited so that no individual can control the action of the other individuals in the group; and finally, an individual acting alone in the exercise of individual power will incur added disadvantages.⁵² Mill also identified a strategy that will lead to the ending of the tyranny: individuals in the group acting in concert under law.⁵³

In *Missouri v. Holland*,⁵⁴ the Supreme Court was faced with an actual case that presented the same dynamics as Mill's hypothetical. This case arose from a 1916 treaty in which the U.S. and England (on behalf of Canada) agreed to protect birds that migrated between the U.S. and Canada.⁵⁵ Congress enacted the Migratory Bird Treaty Act to implement the requirements of the treaty.⁵⁶ The Migratory Bird Treaty Act was challenged in court by the state of Missouri, which claimed that it was an unconstitutional invasion of Missouri's sovereign right, namely, its ownership of all wildlife in its territory.⁵⁷ The Court characterized Missouri's theory as follows: "[t]he State . . . founds its claim of exclusive authority upon an assertion of title to migratory birds. . . . To put the claim of the State upon title is to lean upon a slender reed."⁵⁸ In contrast to this slender reed, the Court held the national interest was great: "[h]ere a national interest of very nearly the first magnitude is involved. It can be protected only by a national action in concert with that of another [national] power."⁵⁹ The Court wisely concluded that the Constitution did not compel it to tie the hands of the only power

52. JOHN STUART MILL, *supra* note 50.

53. *Id.*

54. *See Missouri v. Holland*, 252 U.S. 416 (1920).

55. *Id.* at 431.

56. Migratory Bird Treaty Act, 16 U.S.C. §§ 703-11 (2012).

57. *Holland*, 252 U.S. at 431.

58. *Id.* at 434.

59. *Id.* at 435.

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that could prevent the destruction of a valuable commercial resource, migratory birds.⁶⁰

The logic the Supreme Court used to support its conclusion is instructive. First, the Court focused on a *national* interest, the migratory birds which visit and benefit multiple states in their migration. Then, the Court stated that this national interest can be protected only by “national action . . . with . . . another [national] power”;⁶¹ this followed because only national power transcends the internal borders of each nation. The states of the United States and of Mexico would act in their individual self-interest, and they lacked the power to protect the migratory birds when they were in another state. Then, the Court held that the nations must act “in concert,”⁶² which means they must take collective action. This analysis is the same as that of John Stewart Mill as outlined above; in fact, the Court, like Mill, used the same term “in concert” to characterize the necessary cooperation.⁶³

Modern scholars have analyzed the tyranny of small decisions and the environmental harm caused by that dynamic.⁶⁴

60. *Holland*, 252 U.S. at 435.

61. *Id.*

62. *Id.*

63. *Id.*

64. See generally Cohen, *supra* note 40, at 327 (tracing the history of the concept and illustrating it with the following example: “[i]f, for example, one has uncontrolled or unrestricted use of a parcel of land, say on the river and in the floodplain and decides to fill the low area to make this seemingly inconsequential piece of property more usable, who could argue that there would be any irreversible impact on the entire river system? But the adjacent neighbors make the same decision, and so on up the river. Before long, the entire reach of the flood plain will be altered. When the next flood happens, everyone's property will be impacted”); Eric T. Freyfogle, *Eight Principles for Property Rights in the Anti-Sprawl Age*, 23 WM. & MARY ENVTL. L. & POL'Y REV. 777, 785 (1999); William E. Odum, *Environmental Degradation and the Tyranny of Small Decisions*, 32 BIOSCIENCE 728, 728 (1982), available at <http://www.eeescience.utoledo.edu/faculty/gottgens/Syllabus-HG/Odums%20tyranny%20paper.htm> (“Much of the current confusion and distress surrounding environmental issues can be traced to decisions that were never consciously made, but simply resulted from a series of small decisions. Consider, for example, the loss of coastal wetlands on the east coast of the United States between 1950 and 1970. No one purposely planned to destroy almost 50% of the existing marshland along the coasts of Connecticut and Massachusetts. . . . However, through hundreds of little decisions and the conversion of hundreds of

For example, Professor Eric T. Freyfogle identified challenges such as protecting a riparian corridor, preserving the beauty of a mountainside, solving a watershed's problem, and controlling suburban sprawl as resulting from the tyranny of small decisions. In each of these cases, he concludes:

The problem here is what is sometimes termed the "tyranny of small decisions." It is a tyranny that comes, not principally because people acting alone so often focus on themselves and the short-term—although that is a serious problem—but because people acting separately simply lack the *powers* and options that communities possess, and lack too the time and knowledge to understand many problems. Most environmental land-use problems, suburban sprawl among them, can be understood and described only on a scale well above the individual land parcel. And they are solvable only by *coordinated, collective measures that are equally far reaching*.⁶⁵

Professor Freyfogle's analysis of the dynamics that cause the problems and his proposed solutions to them are the same as those of Mill and the Supreme Court.

The discussion above of the analyses of Mill, the Supreme Court, and modern scholars clearly demonstrates that the failure to mitigate the harm caused by the tyranny of small decisions does not result from a lack of understanding of dynamics of that process. Nor does it arise from a failure to understand that only individuals acting in concert under law and acting on a scale that matches the extent of the harm can end the tyranny.⁶⁶ It is the *dissemination of these understandings to the people of the world* that is missing. The challenge is to have the people of the world realize they are suffering under a common tyranny and understand both its dynamics and the only strategy to overthrow

small tracts of marshland, a major decision in favour of extensive wetlands conversion was made without even addressing the issue directly.").

65. Freyfogle, *supra* note 64, at 784-85 (emphasis added).

66. Not only will the oppression end, but mutual net benefits will also result. See, e.g., International Convention for the Regulation of Whaling, Dec. 2, 1946, 62 Stat 1716, 161 U.N.T.S. 72 (entered into force Nov. 10, 1948) ("Recognizing that the whale stocks are susceptible of natural increases if whaling is properly regulated, and the increases in the size of whale stocks will permit increases in the numbers of whales which may be captured without endangering these natural resources[.]").

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its oppression. To accomplish these goals and to inspire the boldness and courage the people and their governments must embrace, I have turned to a declaration that has enflamed the passions, aspirations, and courage of generations of people throughout the world: the United States Declaration of Independence of 1776.⁶⁷

The following Declaration of *Interdependence* is an adaptation, with quotations in italics, of the Declaration of Independence of 1776. In the Declaration of Interdependence, the tyranny, instead of being wrought by a despot, is caused by the dynamics of the tyranny of small decisions, the process analyzed above. The Declaration of Interdependence, instead of foreshadowing dreaded strife and armed conflict as did the Declaration of Independence of 1776, will launch a golden era of treaty-making in which the modern understandings of science, economics, the dynamics of collective action, and diplomacy⁶⁸ will be the bedrocks of global conventions designed to end the tyrannies of small decisions that are causing concentrations of greenhouse gases to continue to rise in the atmosphere, the risks from global climate change to continue to increase, species to continue to go extinct at record rates, desertification to continue to increase, dead zones in the oceans to continue to grow, and women and the poor to continue to be disproportionately harmed, the conditions of fish stocks to continue to worsen, and sustainability to continue to be an unattainable dream.

67. THE DECLARATION OF INDEPENDENCE (U.S. 1776).

68. See, e.g., Phillip M. Kannan, *Mitigating Global Climate Change: Designing a Dynamic Convention to Combat a Dynamic Risk*, 36 WM. & MARY ENVTL. L. & POL'Y REV. 491 (2012) (proposing treaty provisions designed to update treaty obligations to stay abreast with changing risks).

Declaration of Interdependence of 2014

A Declaration of the People of the World

When in the course of human events, it becomes necessary for all people to acknowledge and strengthen the political bands which have connected their governments with each other, and for each state to assume among the powers of the earth, the separate but interdependent and equal station to which the principles of cooperation and mutual support, human rights, common but differentiated responsibility, common concern of humankind, and sustainability entitle and constrain them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to acknowledge and strengthen these bands.

We hold these truths to be self-evident, that all States are created equal, that they are endowed by their creation with certain unalienable Rights and Obligations, that among these is the Obligation to secure for all people all human rights including Life, Liberty, and the pursuit of Happiness and the sustainability of their societies – That to secure these rights and obligations, a system of International Governance is instituted among States, deriving its just powers from the consent of the governed, – That whenever any system of International Governance among the States becomes destructive of these ends, it is the Right of the People and the Duty of the States that the States alter or abolish it and institute a new system of International Governance among the States, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to affect all the people's Safety, Happiness, Human Rights, and the sustainability of their societies.

Prudence, indeed will dictate that Governments and systems of International Governance long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses, abdications, avoidance, denials, shirking of duties, obstruction, indifference, inactions, and refusals to act, pursuing

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invariably the same Object evinces an unsustainable design to protect the self-interest of States individually by foisting costs, risks, and harms they create onto other States so as to significantly reduce the Safety, Happiness, Human Rights and sustainability in those other states, it is the People's Right, it is the Duty of their Governments, to throw off such system of International Governance, and to provide new Guards for their and their Peoples' future security. – Such has been the patient sufferance of these States of the world; and such is now the necessity which constrains them to alter their former systems of International Governance. The history of the present system of International Governance is a history of repeated abuses, abdications, avoidance, denials, shirking of duties, obstruction, indifference, inactions, and refusals to act, all having in direct effect the establishment over the States of the world of an absolute Tyranny, the Tyranny of Small Decisions, where the Tyrant is the confluence of, first, the power of each State to make decisions purely in the pursuit of its short term self-interest and, second, the lack of global power, options, resources, and understanding sufficient to reap the mutual net benefit and sustainability that accompany cooperation, mutual support, and collective action carried out on a scale of global ecosystems and common concerns of humankind. To prove this, let Facts be submitted to a candid world.

The present system of International Governance *has refused its Assent to Treaties, the most wholesome and necessary for the public good.* Examples include refusal to limit and reduce to safe levels the production of greenhouse gases and the failure to protect fish stocks on the high seas.

It has obstructed the Administration of Justice by refusing its Assent to Treaties for establishing Judiciary powers.

It has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

It has extinguished the species of the earth at rates hundreds of times faster than ever.

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It has caused the desertification of vast areas throughout the world.

It has caused the relentless rise of sea levels putting at risk the wellbeing and lives of billions of people.

It has worsened the drought patterns throughout the world and changed temperature averages, which together threaten the livelihood and food production of billions of people.

It has refused, in the face of flagrant violations, to enforce essential human rights such as the right to equal dignity and protection, the right to life, the right to a standard of living adequate for health and wellbeing, and the right to an international order in which all human rights can be fully realized.

In every stage of these Oppressions people have Petitioned for redress in the most humble terms: Their repeated Petitions have been answered only by failure to provide collective action on a global scale to remove the Oppressions and by repeated injury. A system of International Governance whose character is thus marked by the Tyranny of Small Decisions, is unfit to govern an interdependent world facing mortal perils to its global ecosystems and common concerns of humankind.

Nor have the people been wanting in attentions to deficiencies in the present system of International Governance. Scientists, social scientists, thinkers, those who depend on wildlife, farmers, the press, committees, and observers of nature have warned from time to time of failures of the present system to extend jurisdiction to the scale necessary to combat the international risks and harms. Appeals based on justice and the consanguinity of humankind have fallen on deaf ears.

We, therefore, the People of the world appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the Good People of the World, solemnly publish and declare, That the States of the World are, and of Right ought to be Free and Interdependent States; and that as Free and Interdependent States, they have full Power and

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Obligations *to contract* global *Alliances* which, for each significant risk to a global commons or a common concern of humankind, guarantee the principles of cooperation, mutual support, collective action, concert of action under law, common but differentiated responsibility, common concern of humankind, quantitative limits and obligations of continuous improvement for all parties, protection of all Human Rights including those recognized in the Universal Declaration of Human Rights, and sustainability as means to overthrow the Tyranny of Small Decisions and thus to reduce the risks to the global commons and common concerns of humankind. *And for the support of this Declaration and to compel States to fulfill these Obligations, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes, our sacred Honor,* and our commitment to work tirelessly to organize and thereby to compel our own Governments to initiate or join efforts to negotiate such treaties promptly to mitigate all significant risks to the global commons and common concerns of humankind and end the Tyranny of Small Decisions.