

Paper for IASCP2000
May 31-June 4,2000, Bloomington, Indiana, USA

TOPIC:
**“TOWARDS CRAFTING SUSTAINABLE COMMONS, THIRD WORLD,
AND THE ANTARCTICA MODEL”**

BY

Dr. Prabhas C. Sinha
M.A, M. Phil., Ph.D. (JNU, New Delhi), DCR (Sweden)
Post-Doctorate (EWC, USA), Salzburg Fellow (Austria)
Secretary, Foundation for Conflict Resolution
B-1/1485, Vasant Kunj, New Delhi-110070, India
Telefax :91-11-6899877,

E-mail: absolute@giasdl01.vsnl.net.in / prabhas_sinha@hotmail.com

Antarctica, the first non-nuclearized and demilitarized zone of the world, encompasses 14.3 m sq km as continent (with 18,000 miles of coastline) and 27.3 m sq km of circumpolar ocean. It is governed presently by the 1959 Antarctic Treaty and its subsidiary conventions known collectively as the Antarctic Treaty System (ATS). Both the Antarctic Treaty consultative Consultative Parties (ATSPs) and non consultative parties take part in decision-making with respect to its governance. The ATS, despite having some inherent flaws and loopholes in key areas of voting data collection and non-party participation, seems to be a rational and timely compromise of competing national interests. During the course of time, the number of ATCPs have grown by more than 30 percent since Antarctica first appeared on the UN agenda in 1983 and currently the member states (44 by 1999) cover more than 70 percent of the world population (Sinha, 1996). Seven nations assert sovereignty claims to Antarctic sectors. Three of these claims overlap and are mutually contested. Both the USA and Russia have requested the right to make claims while other states do not recognize any claim. The Sub- Antarctic Islands surrounding the continent and north of latitude 60°S are, with two exceptions, subject to uncontentious national sovereignty. The exceptions are the South Sandwich Islands and South Georgia, where Argentina contests the current jurisdiction of the UK, thus linking the whole issue to the Falklands (Malvinas) Island dispute between these states. Territorial seas and EEZs are asserted around a number of sub-Antarctic Islands. Between these and the Convention area, there are large areas of the high seas. Subsequent agreements under ATS, namely 1972 Convention on Conservation of Antarctic Seals (ICAS), 1980 Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), and 1991 Protocol on Environmental Protection to the Antarctic Treaty, are all in force now. The legitimacy of the ATS has been challenged by some states within the UN General Assembly and other fora. Also the effectiveness of the ATS with respect to overall environmental protection of the continent and surrounding circumpolar ocean has been periodically challenged by several NGOs. Nonetheless, the International Union for Conservation of Nature and Natural Resources (IUCN), comprising of 62 governments, 110 government agencies and over 400 NGOs, prepared a comprehensive strategy to conserve the Antarctica (IUCN, 1991).

Cooperation has become the key to development of Antarctic environmental policies. The Antarctic environment, in particular the human activities that take place in it, are regulated and managed on a cooperative basis by the parties to the complex of multilateral agreements of the ATS. Common global policy instruments which make special provision for Antarctica include the 1992 Rio Summit and Agenda 21, 1982 Third United Nations Convention on Law of the Sea (UNCLOS III) especially Part XII, Plan of Action for the Conservation Management and Utilization of Marine Mammals (MMAP) by United Nations Environment Program (UNEP) and Food and Agriculture Organization (FAO) together with International Whaling Commission (IWC) and IUCN and Negotiating Committee's MEA on persistent organic pollutants (POPs) Framework Convention on Climate Change (FCCC), Montreal Protocol, Convention on International Trade in Endangered Species (CITES), Convention on Biological Diversity (CBD) and London Convention.

Except for few countries, Antarctic issues are largely peripheral to domestic politics and the economy. At the global level. This has resulted in an inability or unwillingness, or both, to pay much attention to the problems of the polar environment, not least in the allocation of funds. Although Antarctic Treaty Consultative Meetings, by now, have adopted more than 100 measures, decision or policy initiatives remain largely proactive in nature, seeking to address potential problem before they arise. Mass tourism, illegal fishing, infra-structural development and dumping remain the most serious challenges. CCAMLR, in particular, needs to develop strict enforcement mechanisms so as to ensure that conservation measures are complied with the activities of an overcapitalized global fishing fleet, operating under a complicated system. Of the aforesaid 100 measures, of particular significance are recent measures in tourism, and designation and management plans for different categories of protected area, and resolutions on fuel storage and handling, inspection, checklists for current stations, abandoned stations, vessels, waste disposal sites, emergency response action and contingency plans.

Besides widespread contamination, Antarctica is exposed to high levels of ultraviolet radiation, and its icecaps, shelves and glaciers are melting as a result of global warming. In addition, many sub-Antarctic islands bear the distinctive imprint of human modification, particularly through the deliberate introduction of animals, pests and predators. Conservative estimates put the annual albatross mortality from fishing in the southern Ocean to the tune 44000. The reported legal catch of Patagonian toothfish in the Antarctic was 10245 tonnes whereas the illegal catch was estimated at more that 100,000 tonnes in the Indian Ocean sector of the Southern Ocean alone (UNEP, GEO 2000).

The Antarctic ozone hole is formed when there is a sharp decline in the total ozone over most of the Antarctica during the Southern Hemisphere spring. The loss of ozone over the South Pole is mainly due to chemical reactions that take place inside the Antarctic polar vortex. A seasonal hole has developed every year since its advert in the late 1970s, with strong occurrences in 1992, 1993, 1996 and 1997. In 1998 the maximum area of the ozone hole was more than 26 sq km² and it also covered some populated areas of the Southern Hemisphere (WMO, et., at., 1998)

Antarctic sea-ice undergoes an annual change in area from around 4 million km in late summer to 19 sq km in late winter (Allison, 1997). Climate change could have a

considerable impact on sea ice in the Southern Ocean. In turn, changes in the characteristic and extent of Antarctic sea-ice will affect the vertical structure of the Southern Ocean. These oceanic variations are likely to be felt widely around the globe because the Southern Ocean as unifying link for exchanges of water masses at all depths between the world's major ocean basins, transmits climate anomalies around the globe (White and Peterson, 1996).

Antarctica and Southern Ocean are the home of 54 species of sea-birds (some numbering in millions) and 21 marine mammal species (including several gravely depleted large whales). Sea around Antarctica is capable of providing about 39 million tonnes of a crustacean called Krill annually. For the marine ecosystem surrounding Antarctica, it is likely that the direct and indirect impacts of fishing will remain the main threat to the Southern Ocean's bio-diversity. These impacts must, however, be assessed against the effects of natural variability in the Southern Ocean, and the impact of natural physical disturbance (such as that by ice). A number of the albatrosses breeding on the sub – Antarctic islands have been placed on the list of species which have an unfavourable conservation status and require international agreement for their conservation and management (under Appendix II of the 1979 Convention on the Conservation of Migratory Species of Wild Animals, the Bonn Convention). One species (the Amsterdam albatross, *Diomedea amsterdamensis*) has been placed on the Appendix I list of species which are endangered (CMS 1997). Whaling is not covered by the Antarctic Treaty System, as it is dealt with under the International Convention for the Regulation of Whaling. The International Whaling Commission (IWC), concerned with the negative impact of whaling, established a Southern Ocean Whale Sanctuary in 1994. Japan voted against the sanctuary and entered an objection to it with respect to Antarctic Minke whale stocks. In 1998, the Commission passed a resolution requesting Japan or refrain from issuing a special permit for the take of southern hemisphere Minke whales, particularly within the sanctuary (IWC 1998).

Science in Antarctica is no more immune to profit motives. The demand within the ATS is to devise ways in which the interested countries could act as a unitary rational factor in the systematic evolution of Antarctic resource development policy. The Third World has proposed for a drastic modification of Antarctic Treaty Consultative Parties (ATCPs) practice of transforming their roles from scientific research to resource management. So, the fact remains that whether it is Third World's aspirations or the developed worlds ambitions, scientific colonization in Antarctica is metamorphosing into a new kind of neocolonialism. The issues and problems associated with Antarctic politics are neither simplistic in character nor facile in resolution. The gradual unbundling of rights as alternative to the all or nothing concept, require fresh consideration. External accommodation in a meaningful manner preconditions the development of an alternative strategy capable of addressing the legitimate Third World concerns. During the 1980s, in response to pressure from the environmental movement and non-Antarctic Treaty states at the United Nations, the ATS became more open and accessible. Expert organizations were admitted to the ATCMs and CCAMLR meetings, meeting documents became publicly available and Parties paid increasing attention to aspirations and perceptions outside the meeting. Although, there has been some reduction in this openness during the 1990s. Expert organizations external to the ATS were denied access to the 11 meetings of the Group of Legal Experts on liability for damage to

the environment between 1992 and 1998. Set against this, however, is the creation of a web site for the XXII and XXIII ATCMS that allows access to documents following the meeting (ATCM 1998). Organizations invited to attend the ATCMS include United Nations Organizations (IMO, IOC, UNEP and WMO) and international organizations such as IAATO, IUCN, Pacific Asia Travel Association, World Tourism Organization and the Antarctic and Southern Ocean Coalition. In 1990, the region south of latitude 60°S was designated a Special Area under Annexes I (oil) and V (garbage) of MARPOL 73/78, banning the disposal, at sea or on shore, of oily residues and garbage from ships.

The Protocol on Environmental Protection to the Antarctic Treaty specifically prohibits mineral resource activity other than for scientific purposes. The only extractive resource industry in the Antarctica is fishing within the CCAMLR area, South of the Polar Front. The 1997/98 fisheries in the Convention area are Patagonia and Antarctic toothfish, Mackerel icefish, Krill, and Squid. Illegal, unreported and unregulated fishing in the Convention area is a matter of major concern and poses a serious challenge to the ATS (CCAMLR, 1999). As the bio-prospecting interest, besides the growing one in biochemical compounds, is developing rapidly, there is the possibility of serious impacts on the target (and associated) species through harvesting, although compliance with the protocol should prevent this. Alien species introduction present another grave threat to the biodiversity of the region.

National moral stakes, in general, conflict with governmental priorities. So are the national necessity, with international challenges and responsibilities. International conflicts would significantly reduce if involved countries agree for a complete preservation of Antarctic. However, participation of countries with vague aims has led to their adherence to divisive views. Polarization of views prevails regarding the validity of ATS itself, its functional exclusivity, and international acceptability. India's suggestion about the option of continuation by evolution needs global rational consideration, particularly by the Antarctic Treaty Consultative Parties. The absence of agreed national sovereignty has shaped the international regime in Antarctica. The area south of 60°S remains subjected to a form of international governance under the ATS, although many nations have been contesting the propriety of this subset of the global community regulating outside the UN System, what they assert is a *global commons*. The sub-Antarctic Macquarie and Heard islands have been nominated by the Australian Government for inscription on the World Heritage List (Australia 1996) under the Convention for the Protection of the World Cultural and Natural Heritage. The New Zealand Government has nominated the Antipodes Island, Auckland Islands, Bounty Islands, Campbell Island and the Snares (NZ 1997).

Commercial tourism in Antarctica has accelerated in the past decade, both in numbers of passengers on ships and, more recently, in overflying aircraft. To prevent or mitigate the possible environmental impacts of this growing demand, the International Association of Antarctica Tour Operators (IAATO) has taken a number of measures in conjunction with the parties to the Antarctic Treaty. These measures include evaluation of the environmental impact of activities proposed by the company members of IAATO, and the introduction of ship-board Oil Pollution Emergency Plans on all IAATO member vessels. Furthermore, parties to the Antarctic Treaty

have recommended the use of a standard form for post-visit reporting in order to obtain consistent information that will facilitate analysis of the scope, frequency and intensity of tourism and other non-governmental activities (ATCM 1997). Growth in tourism and fisheries activities is likely to continue. Current policies for management of these industries are inadequate. While tourism does not currently present a serious problem, existing policy is based on limited, largely ship-based touring, where most operators are members of an environmentally sensitive industry association, IAATO. Any emerging mass tourism industry in Antarctica could become a challenge for existing policy structures or IAATO.

The role of the UN about continuity or change in the 30 years old ATS has come under close scrutiny. Australian/French initiatives for 'Antarctic Wilderness' is gaining support but consensus is still eluding. While one side is keen to get going with mineral resource development, the other is all out for a complete moratorium. Financial obligation for participation in any mineral activity remains discriminatory. Operative elements still reinforce disparity in action. Consensus building on the issue of Antarctic Mineral Resource Regime needs to be more widespread and acceptable so as to prevent historical episodes being tried as basis for consolidating territorial claims. At the same time there is a need to avoid "the tragedy of commons" in several forms and functionalities. External and internal accommodation may be a welcome option, augmented by some speculative legal and political prognostications. India, because of its position in the Third World and due to its increasing scientific research since 1981, should help in forming a forum with other developing countries to convert the continent into a "world park". It seems that this position has been gradually lost by India to Malaysia which has taken the lead in calling for either drastic modification or even annulment of the ATS. The other option the Third World has, is to press for greater non-governmental organisation (NGO) mediation in converting Antarctica into a 'global wilderness'. They can also stress for having detailed measures to define and protect the continent's habitat and ensure that all developments are subject to environmental impact assessment (EIA) clearance. "Ecologically Critical Areas" (ECAs) in Antarctica may be declared as historic sites where any future economic exploitation could be totally banned unconditionally for the foreseeable future. Problems like global warming, ozone depletion, ground water pollution, acid rain, environmental and natural resource degradation, and bio-diversity depletion have made the debate crucial w.r.t natural resource conservation and about international co-operation for regulation of an entire continent, as vital as Antarctica. Nations like Norway, Japan and Korea have called for permission to continue whaling on the pretext that they are surplus in the Southern Ocean.

Thus, it seems that much of the current thinking about Antarctica is being dominated its possible restrictive utilization, exclusive domination, and escapism of the frontier mentality. The 1959 Antarctic Treaty's silence over the issue of economic utilization of Antarctic resources has kept the doors open for 'loophole opportunism'. With a 50 year conditional ban on mining and a partial on hunting of marine life, including only certain species, it is easier for countries to use science to exploit them for commercial purposes. Question of the validity of 1996 International Whaling Commission's action in adopting a 'Southern Ocean Sanctuary', which forbids the commercial harvest of whales in that area, regardless of their conservation status, is also being questioned. Intensive tourism, sinking of ships, dismantling of scientific

stations are only a few of the existing serious problems. Nations of the world, both party and non-party to the ATS, are busy in identifying their short-term and long-term interests. To gain overall legitimacy for their actions they apply the interactionist and interpretive approaches, both at overt and covert levels. What is also worrying is the growing demand among the world community for the division of the circumpolar ocean surrounding Antarctica.

References :

- Allison, I., 1997, Physical processes determining the Antarctic sea ice environment, *Australian Journal of Physics*, Vol. 50. pp759-77.
- ATCM, 1998, <http://www.antarctica-rcta.com.de>
- CCAMLR, 1999, Report of the CCAMLR observer to ATCM XXIII, Information Paper 64, Lima, Peru.
- CMS, 1997, Convention for the Conservation of Migratory Species of Wild Animals, Proceedings of the fifth meeting of the COPs, Geneva, 10-16 April.
- IUCN, 1991, A Strategy for Antarctic Conservation, Gland, Switzerland.
- IWC, 1998, <http://ourworld.compuserve.com/homepages/iwcoffice>
- NZ, 1997 Sub-Antarctic Islands Heritage, Dept. of Conservation, Wellington, New Zealand.
- Sinha, P.C., 1996, Antarctica-Indian Role and Interests, *Journal of Indian Ocean Studies* Vol. 4 No.1. pp 58-66.
- UNEP, 1999, GEO-2000, UNEP'S Millennium Report on the Environment, Nairobi.
- White, W.B., and Peterson, R.G., 1996, An Antarctic circumpolar wave in surface pressure, wind, temperature and sea-ice extent, *Nature*, Vol. 380, pp 699-702.
- WMO, 1998, Scientific assessment of Ozone Depletion, Global Ozone Research and Monitoring Project Report No. 44, Geneva.