



REVIEW ON BETWEEN THE RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT

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ABSTRACT

the right to the best possible physical and mental health, the right to an adequate standard of living, the right to enough food, the right to housing, the right to safe drinking water and sanitation, the right to engage in cultural activities, and others, are generally acknowledged to depend on a clean, healthy, and sustainable environment. Environmental degradation or harm prevents people from exercising these and other human rights. There is currently no universal agreement on the specific legal position of the environment in the international human rights debate, despite this clarity on the strong relationship between human rights and a healthy environment. The most important issue is whether each person has a unique human right to a clean, healthy, and sustainable environment and if the state has an obligation to provide such environment for them. Furthermore, other non-state organizations, such as automakers, oil firms, and other enterprises, can have an equivalent duty of care. The idea that a clean, healthy, and sustainable environment is a prerequisite for the enjoyment of traditional, long-established human rights is fundamentally different from the explicit recognition of each person's human right to be provided with such an environment.

Keywords: *physical and mental health, human rights*

INTRODUCTION

Living in an area that meets one's most basic requirements in terms of personal hygiene, safety from the elements, and environmental preservation is an intrinsic human right. A basic human right, this is. Some human rights are difficult to implement because of the inseparable relationship between environmental protection and human rights. It is impossible to enforce some human rights in an unclean, unhealthy, and unsustainable environment, and this is the specific reason why. The rationale for this is that ensuring human rights respect and environmental conservation are inseparable. The right to live, to appropriate food and water, to proper sanitation, and to economic progress are only a few of the many rights to which every human being is entitled. Being mentioned on this list is also something that might happen. To ensure the preservation of the planet's finite natural resources, it is equally vital that individuals have the power to exercise their rights to knowledge, assembly, and justice. Our ecological system is deteriorating in general, despite several national and international norms and standards. Even if there are regulations and guidelines, this continues to be the situation. In addition to being some of humanity's most pressing problems right now, pollution, climate change, and biodiversity loss all pose serious risks to people's capacity to exercise their basic human rights to the utmost degree.

Human rights

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights are rights that are inalienable to all people. Among the various rights that fall under the umbrella of human rights are the rights to life and liberty, freedom from slavery and torture, freedom of thought and speech, the right to labor and education, and many more. No one is exempt from these rights; they are universally applicable to all individuals. In order to promote and defend human rights and basic freedoms of people or groups, international human rights law sets down the responsibilities that governments have to behave in particular ways or to abstain from certain actions. These requirements make it possible for governments to promote and protect human rights.

Right to a Healthy Environment

The recent recognition of the human right to a clean, healthy, and sustainable environment by the United Nations General Assembly and the United Nations Human Rights Council is a powerful new tool that can be used to address the human rights impacts of climate change, biodiversity loss, and pollution, as well as to ensure that environmental action is based on rights.

Unpacking the components and significance of the right to a clean, healthy, and sustainable environment, this Information Note, which was co-authored by the United Nations Development Program (UNDP), the Office of the High Commissioner for Human Rights (OHCHR), and the United Nations Environment Programme (UNEP), describes the ways in which various stakeholders may play an active role in making the right a reality for everyone.

OBJECTIVES

1. In order to do research on the Significant Obligation Regarding Human Rights
2. To conduct research on the protection of human rights and the environment

GA - RESOLUTION RELATING TO THE RIGHT TO A HEALTHY AREA

On July 28, 2022, the General Assembly passed a resolution establishing the historic right to an environmentally sound environment. With this document's approval, the General Assembly moved forward.⁶ After the Human Rights Council (HRC) acknowledged the right in October 2017, the resolution required an incredible 161 votes in favor, 0 votes against, and 8 abstentions to become law. Since the General Assembly's resolution, 156 countries have officially acknowledged this right, either on a national or regional level. This proves beyond a reasonable doubt that this right has global backing. Policymaking at the UN is primarily the purview of the General Assembly (GA). It is the responsibility of this group to evaluate new human rights problems; all 193 member nations are considered members. Governments are often prompted to revise their policies, constitutions, and laws via the use of general assembly resolutions. The goal is to get the desired results by doing this.

To acknowledge the right to a healthy environment, the General Assembly passed a resolution that was the product of extensive and long-term collaboration among many different organizations and people. Youth, indigenous communities, non-governmental organizations, national human rights groups, and UN agencies were among the many groups and individuals who took part. The decision by governments to take action in response to environmental issues was another factor that helped bring it into being. On a dozen separate occasions in the struggle against pollution, climate change, biodiversity loss, and other types of harm to

natural capital, human rights must be given more importance than ever before. Quick action is required if we are to achieve the SDGs (Sustainable Development Goals).

Components Of The Environment's Right To Health

Even though there isn't a universally accepted definition, most people assume that providing a healthy and safe natural environment includes both substantive and procedural aspects. Climate stability, access to clean water, sanitation, and air; healthy, sustainably produced food; toxic-free environments suitable for human habitation, education, employment, and recreation; and thriving ecosystems and biodiversity are all crucial. Procedural components include things like the ability to acquire information, have a say in decisions, have access to justice and effective remedies, and exercise these rights in a safe atmosphere without fear of retaliation. To guarantee that all people have an equal chance to take part in environmental action, including resource management, we need international cooperation, solidarity, and the chance to live a long and healthy life. It is essential to the right to a healthy environment that human rights abuses caused by environmental degradation be recognized as extraterritorial jurisdiction.

Whenever the General Assembly has recognized a human right, states have historically stepped up their efforts to ensure its enjoyment. Given this, it's quite likely that the General Assembly's resolution on access to a healthy environment will have many transformative effects. Human rights and environmental protection are complementary domains that, when understood, may strengthen one another; yet, it is important to be aware of the threats that human rights might represent to environmental preservation and how to mitigate them. More countries' laws will officially recognize the right if this proclamation prompts constitutional and/or legislative modifications in those that do not already do so. from a societal perspective, with a deeper understanding of the need of tackling environmental issues?

If we want those in charge of environmental decisions and the people whose lives are impacted by those decisions to step up and do their part, we need to implement a human rights-based approach (HRBA), a strategy for environmental protection based on human rights. Individuals have the right to a safe and healthy environment, as well as its previously mentioned issues pertaining to substance and process, by incorporating the Universal Declaration of Human Rights Basic Act (HRBA). This includes human rights principles such as inclusion and universality, equality and non-discrimination, accountability, and transparency. The provision of effective remedies for violations of human rights is ensured by an HRBA, which also links "rights holders" who may hold "responsibility bearers" responsible with such remedies. An HRBA helps to build and solidify this bond. Those who have a duty to uphold and promote human rights are called "Responsibility Bearers" because of their moral and legal obligations in this regard.

Entitlement To A Salubrious Milieu

The primary responsibility for ensuring access to a healthy environment lies with the state governments. Similarly, it is anticipated that state governments would safeguard, defend, and fulfill all human rights. Even worse, the goal of a healthy and safe environment cannot be achieved unless everyone does their part. A resolution passed by the General Assembly stated, "States, international organizations, business enterprises, and other relevant stakeholders are called upon to adopt policies, to enhance international cooperation, to strengthen capacity-building, and to continue to share good practices in order to scale up efforts to ensure a clean, healthy, and sustainable environment for all." As the principal mediator of human rights conflicts, the

state has an obligation to protect the rights of all individuals, particularly those who are most at risk from environmental degradation. This must be done in a manner that aligns with its objective of protecting the environment for the sake of generations to come. Two components of this are learning how to make the world a better place for everyone and making the appropriate adjustments to the constitution, laws, and regulations. Enhancing our capacity to operate more effectively to ensure that every individual lives in a health-promoting environment is another item that falls under this category. A rights-based approach to biodiversity, climate adaptation, and nationally required contributions might potentially improve all of these areas when it comes to strategy and action plan development, content, supervision, and execution. That involves making sure everything is in place so that those who are looking for answers and justice may find them. Protecting human rights within their sphere of influence should be a top priority for armed non-state organizations (NGOs) when they mimic official acts.

Basis For Environmental Protection: Human Rights

No provision guaranteeing an individual's right to an environment free from danger, disease, and unsustainable development appears in any of the three most major international human rights treaties. None of the three world covenants—the UDHR, the ICESCR, and the ICCPR—state or recognize the connection between environmental degradation and human rights. legal protections. Not only did the Drakes not "foresee the enormity of... ecological degradation," but they also did not keep quiet because they cared little about the environment or didn't realize that environmental damage might hurt people. There was a worldwide environmental movement that began in the 1960s, not long after these seminal works were written—something that most people probably didn't know.

In regard to t Numerous regional international human rights agreements and a plethora of global instruments addressing specific groups of people have been ratified since then. This lineage has real environmental rights, according to these publications. This family tree contains the international agreements and publications that are being discussed. One example is the requirement that all states that have ratified the "CEDAW" treaty must guarantee women's equal treatment under the provision that states they must "enjoy adequate living conditions, particularly in relation to... sanitation... and water supply." States Parties are required to take into account the "dangers and risks of environmental pollution" in addition to ensuring the best possible health for children, as stated in Article 39 of the Child's Declaration of Rights (commonly abbreviated as "CRC").⁴⁷ The beneficial correlation between environmental variables and human health is made quite clear in a number of the regional agreements.

"Generally satisfactory" and "favorable to their development" natural environments are guaranteed to all Africans in Article 24 of the African Charter on Peoples and Humans. "Right to life" describes this situation. ⁴⁸ Additionally, in the first paragraph of article one of the 1988 San Salvador Protocol, "the right to have access to basic public services and to live in a healthy environment" is explicitly recognized. For states that have vowed to "promote the protection, preservation, and improvement of the environment" (as stated in article 11(2) of the Protocol), duties are allocated. The Protocol would have these details. ⁵⁰ Global protection may be considered "modest," but these rules taken together might "indirectly suggest" that people have an inherent right to keep the planet habitable.

A Crucial Obligation Concerning Human Rights

As has been noted on several occasions by both the current UN Human Rights Council and the previous UN Human Rights Commission, environmental law infractions "constitute a serious threat to the human rights to life, good health, and a sound environment for everyone." These two entities have released a joint statement on the matter. Article 3, which protects the right to life, should not be read restrictively, as has been brought to the attention of the United Nations Human Rights Committee. Furthermore, the committee has noted that nations should take real steps to safeguard the right to life, such as decreasing the death rate among babies and improving the average life expectancy of the population. There is a chance that environmental catastrophes and escalating levels of long-term environmental degradation, both of which have the ability to create illnesses that are deadly, could have a detrimental influence on the capacity of persons to exercise their right to life.

There are two rights: the right to exist, which includes the specific fundamental right not to be hungry, and the right to adequate food, which includes the availability of food in sufficient quantity and quality to meet dietary needs, food that is safe from harmful substances, and food that is acceptable within a particular culture. Both of these rights are referred to as the "right to exist." These two rights are incorporated under the idea of the right to exist. It is necessary to keep to these criteria in order to guarantee that one obtains a proper quantity of nutrients. While it is true that these rights are recognized by international law, it is highly tough to exercise them in a situation that does not fulfill the essential conditions.

The right to health care, the right to proper food, and the right of indigenous peoples to their own land, resources, and traditional customs have all been officially identified as having ties to environmental preservation in more recent international human rights agreements. In particular, the right to health care has been recognized as having a nexus to environmental preservation. For each and every one of these rights, this is the case. As soon as these rights are put into effect, the relevance of this becomes much more clear. It is true that many pre-existing human rights treaties did not target environmental preservation when they were being developed and accepted; yet, these accords continue to preserve interests that are badly harmed by environmental degradation while they are in force. There have been various situations in which human rights treaty organizations and regional human rights institutions have interpreted these instruments in a way that respects the environmental component of the rights that are being safeguarded. These interpretations have helped to guarantee that these rights are safeguarded. There are a handful of fundamental human rights that are guaranteed to every individual. These rights include the right to exist, the right to be healthy, the right to have an adequate quality of life, the right to have access to sufficient nourishment, water, and shelter, the right to self-determination, and the right to means of sustenance.

Statement Presents Everyone's Rights

Some of the guarantees that fall under this category are the right to exist, the right to participate in cultural life, and the right to enough food, clothes, shelter, healthcare, and social services. But this is by no means an all-inclusive list. There is no way around them if one cares about their health and the health of their loved ones. It is worth noting that the Universal Declaration of Human Rights also contains provisions for procedural rights. The goal of these regulations is to safeguard environmental issues in addition to other human rights. This group of rights includes, but is not limited to, the ability to vote, the right to a fair and effective means of redress in cases of basic rights violations, and the freedom to know, receive, and exchange information and ideas.

A Rightful Settlement Possible For Health

There is an increasing amount of law on all levels, including global, regional, and national, that recognizes this fact. This specific fact is gaining more and more recognition, as is the link between safeguarding human rights and the environment. Additionally, there is a growing global tendency toward the creation of laws that ensure everyone has the right to reside in an environment that is both continually maintained and devoid of harmful substances; for further details on this development, refer to the next section. More and more individuals are joining this movement in various nations.

As a prerequisite for the enjoyment of all other human rights, the right to an environment free from pollution was recognized by the United Nations Human Rights Council in October 2021. The realization of every other human right depends on this right. In particular, the resolution calls on all national governments to prioritize environmental sustainability by protecting ecosystems and biodiversity.

Although no binding conditions are set out in the resolution, it does make a significant statement that might impact how the Territory considers the inclusion of a right to a healthy environment in the Human Rights Act. The whole gamut of environmental law on a global scale covers all of these topics. Making ensuring this international law is implemented at the national level is the responsibility of the intergovernmental agreements between the Commonwealth and the states and territories. For example, the ACT Government's environmental protection agencies look to the global community's general regulations on chemicals and pollutants for guidance in their fight against harmful substances. It is with this legislative body that conventions like the Basel, Rotterdam, and Stockholm Conventions are linked. thirty-second spot In order to determine what is necessary to protect the right to a healthy environment, these international environmental standards are meant to act as a foundation. Their purpose is to protect the environment.

CONCLUSION

In some cases, the environmental harm is substantial and will have far-reaching consequences. Because once life is gone, it can't be brought back under any circumstances. Moderate and continuous development characterized the age before the establishment of cities and industries. The environmental impact was significantly reduced in every case when this happened. In no way was the environmental quality diminished. Because of this, development and ecological could live side by side without causing any problems. Importantly, neither the citizens nor the government were compelled to take any active measures to preserve the ecosystem. There was a general reduction in the population throughout the 1960s as well. Utilization of soil and other natural resources was less prevalent in bygone eras. When things began to change after the year to accommodate the everyday need of man's comfort and enjoyment, the natural habitat and surroundings were put to the test. The ecosystem and its natural habitat were tested by this. The regrettable lack of more land and other natural resources meant that they could not meet the ever-increasing demand while simultaneously trying to increase supply.

REFERENCES

1. Varvastian, Sam. (2019). The Human Right to a Clean and Healthy Environment in Climate Change Litigation. SSRN Electronic Journal. 10.2139/ssrn.3369481.

2. Afunaduula, Isaac. (2005). Environment And Human Rights: The Right to A Clean and Healthy Environment as A Basic Human Right in Uganda.
3. Bopagamage, Arunoda & Bopagamage, Pranidhi. (2022). Development of the Right to a Clean and Healthy Environment: A Comparative Study of India and Sri Lanka. 1. 21.
4. Giorgetta, S. (2002). The Right to a Healthy Environment, Human Rights and Sustainable Development. *International Environmental Agreements*. 2.
5. Soyapi, Caiphaz. (2019). The courts and the constitutional right to a clean and healthy environment in Uganda. *Review of European, Comparative & International Environmental Law*. 28. 10.1111/reel.12283.
6. Oliveira, Heloísa. (2023). Human rights law and environmental protection.
7. Bhat, Mohd Yousuf & Andrabi, Syed Damsaz. (2017). Right to Life in Context of Clean Environment: It's Significance under Various Laws. *IOSR Journal of Humanities and Social Science*. 22. 79-85. 10.9790/0837-2205107985.
8. No, & Singh, Yogendra & Misra, Dr. (2022). Right to Clean Environment and Legal Responsibilities towards Environment Change.
9. Lumina, Mulesa. (2020). The Right to a Clean, Safe and Healthy Environment Under the African Human Rights System. 10.1007/978-3-030-46523-0_2.
10. Nevondwe, Lufuno & Odeku, Kola. (2013). An Overview of the Constitutional Right to Clean Environment and Sustainable Development. *Mediterranean Journal of Social Sciences*. 4. 10.5901/mjss.2013.v4n13p829.
11. Razzaque, Jona. (2010). Right to a Healthy Environment in Human Rights Law. *International Human Rights Law: Six Decades after the UDHR and Beyond*.
12. PÎRVU, Daniela. (2021). The Right of Humans to a Healthy Environment, a Fourth Generation Human Right. *Postmodern Openings*. 12. 10.18662/po/12.2/308.
13. Kothari, Ashish & Patel, Anuprita. (2006). Environment and Human Rights.
14. Craig, Robin. (2006). Should there be a Constitutional Right to a Clean and Healthy Environment?.
15. Weston, Burns & Bollier, David. (2013). Toward a recalibrated human right to a clean and healthy environment: making the conceptual transition. *Journal of Human Rights and the Environment*. 4. 116-142. 10.4337/jhre.2013.02.01.
16. Nyka, Maciej. (2012). Human Rights and the Environment. *Przegląd Prawa Ochrony Środowiska*. 3. 10.12775/PPOS.2012.015.
17. Lohchab, Rajesh. (2011). Environmental Human Rights-Constitutional Provisions in India.

18. Boyd, David. (2011). The Implicit Constitutional Right to Live in a Healthy Environment. *Review of European Community and International Environmental Law (RECIEL)*. 20. 10.1111/j.1467-9388.2011.00701.x.
19. Kaur, Gagandeep. (2018). *Fundamental Right to Live in a Healthy Environment: Constitutional and Judicial Outlook*.