

ENVIRONMENT AND HUMAN RIGHTS

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Abstract

The last century has witnessed continuous deterioration of the biophysical environment on a global scale to the extent that human well-being is coming under threat. Development activities intended to improve the quality of life, have exacted a high cost from the environment. The consumption practices and development activities have made use of the earth's natural resources without adequate replenishment and exceeded the earth's capacity to absorb waste. Climate change and global warming are not only taxing the earth's atmosphere, but directly affecting mankind. Human rights as individuals or groups, nations or states or regional organizations or other international players, are affected in one way or the other by these environmental degradations. Human rights and the environment are indivisible and inseparable and thus the right to a safe and healthy environment as an independent substantive human right. Therefore every individual has his duties towards the environment and must protect it individually to protect his or her human rights and visa-versa.

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Introduction

We have stepped into the 21st century and can now boast our achievements, the levels which have adorned us in the fields of science technology, media, etc. This is the age of information technology where almost every aspect of life has come to be attached with a prefix of like 'e-mail, e-commerce, e-governance, etc. Having entered this hi-tech world we have all the reason to take pride in the fact that we are the citizens of this new world. Advancement in science and technology has no doubt improved the lives of people as several new gadgets have come to their rescue and spared the human hands of manual labor. Thus, apparently, it appears that the boon of advancement in material culture has improved the quality of life. However, an in-depth and detailed study of what lies around or the environment around us opens before us a rather grim picture, a picture of serious environmental degradation and how basic human rights are getting affected by it. These two issues are not in watertight compartments in fact they are interlinked. Human rights have always been a topic of grave concern and discussion as to how to save them. In this reference, it is important to point out that human rights depend upon the environment for their survival. Thus, protection of the environment should be made an utmost priority if human rights are to be truly enjoyed and protected. Governmental action in this direction has had the desired effect but there has not been sufficient charges to protect the environment completely. Wastes from hospitals, hotels, temples, homes, effluents from factories and industries are a major source of pollution. The use of horns in the areas of schools, hospitals is a source of serious pollution of sound. Environmental Protection Laws are being openly flouted creating serious problems of global warming leading to increased natural disasters. Extremes of weather in the shape of very high and very low temperatures adversely affect the plant and animal lives. India is an agricultural country and if the crops are adversely affected, it will have a direct effect on the well-being of its citizens and will also affect the economy of the country.

The civic sense among masses is at its lowest in almost the whole of the country except in Chandigarh which is an ideal city. There is no encroachment on the roads and all-round cleanliness is maintained throughout that city. This situation is rarely found in other cities because of the apathy of the masses. If every citizen is keen to maintain environmental cleanliness this will be an ideal situation. Concern for environmental and human rights has become an area of global concern and is calling for international attention.

The UN General Assembly in its 45/94 resolution recalled the Stockholm declaration stating that "all individuals are entitled to live in an environment adequate

for their health and well-being. The resolution called for enhanced efforts towards ensuring a better and healthier environment.” In the three decades since the Stockholm Conference, declaratory statements have been reformulated and elaborated in various ways in international legal instruments to protect the human rights bodies. The first approach, perhaps closest to that of the Stockholm Declaration, understands environmental protection as a pre-condition to the enjoyment of internationally-guaranteed human rights, especially the rights to life and health. Environmental protection is thus an essential instrument in the effort to secure the effective universal enjoyment of human rights.

Principle 1: of the Stockholm Declaration established a foundation for linking human rights, health, rather than the right to life itself.

Human rights cannot be secured in a degraded or polluted environment. The fundamental right to life is threatened by soil degradation and deforestation and by exposures to toxic chemicals, hazardous wastes, and contaminated drinking water. Environmental conditions clearly help to determine the extent to which people enjoy their basic rights to life, health, adequate food and housing, and traditional livelihood and culture. It is time to recognize that those who pollute or destroy the natural environment are not just committing a crime against nature, but are violating human rights as well.

Principle 2: rights-based approach, most common in international environmental agreements since 1992, is also instrumentalist, but instead of viewing environmental protection as an essential element of human rights, it views certain human rights as essential elements to achieving environmental protection, which has as a principal aim the protection of human health. This approach is well-illustrated by the Rio Declaration on Environment and Development, adopted at the conclusion of the 1992 Conference of Rio de Janeiro on Environment and Development. It formulates a link between human rights and environmental protection largely in procedural terms, declaring in Principle 10 that access to information, public participation and access to effective judicial and administrative proceedings, including redress and remedy, should be guaranteed because environmental issues are best handled with the participation of all concerned citizens, at the relevant level. Thus, these procedural rights, contained in all human rights instruments, are adopted in environmental texts in order to have better environmental decision-making and enforcement.

Principle 3: and most recent approach views human rights and environment as indivisible and inseparable and thus the right to a safe and healthy environment as

an independent substantive human right. At present, examples of this are found mainly in national law and in regional human rights and environmental treaties.

It should be noted that there are other regulatory approaches to achieving environmental protection and public health that are not rights-based. Economic incentives and disincentives, criminal law, and private liability regimes have all formed part of the framework of international and national environmental law and health law. There is an emphasis on responsibilities rather than rights and subsequent instruments that emphasize the duty of each person to protect and improve the environment for present and future generations. It is also consistent with human rights instruments that affirm the duties of each individual.

Some of the examples of denial of fundamental rights are- Exposure to hazardous chemicals through careless industrial practices; Marginalization of subsistence farmers through soil depletion; Deforestation; or making the use of traditional grazing lands for any military installation and Chinese settlements to name a few. Environmental consequences such as death by acute exposure to radioactivity or by contaminated drinking water are a glaring examples of denying the fundamental right to life. Some rights like: The right to safe and healthy working conditions; The right to health; The right to adequate housing and food; are all recognized in the universal declaration of human rights and have a wide implications for the environment.

Hence environmental degradation is directly proportional to the denial of human rights or self-determination. International Convention on Civil and Political Rights which is one of the fundamental international human rights instruments-declares in its Article (I) that “all peoples have the right of self-determination.” and explains that by virtue of that right they freely determine their political status and freely pursue the economic, social and cultural development.

Suggestions

In order to create a better world that is filled with peace one must have the feeling of love and compassion for others. People who are less fortunate should be treated equally and with dignity. Therefore the right approach to protecting human rights can be established by linking them with environmental protection. Drafting fundamental rights in the light of the natural environment helps to preserve human rights. This can be achieved at the international forum through the human body itself. Non-government organizations have a major role to play in this as they could this serve purpose by developing awareness to protect and respect human rights and also by giving a ray of light to the victims of human right violation.

In the end, it needs to be emphasized once again human rights can be saved and enjoyed only if the very environment around is amicable enough to make way for their enjoyment. The right to live a healthy, happy life, which can be considered the basic right of survival, depends upon sustainable development by environmental protection. Thus the following need to be implemented by the all governments globally:

(1) treaties and declarations in the fields of human rights and environmental protection,

(2) the decisions of human rights bodies, that link human rights, health, and environmental protection and

(3) national constitutional provisions, laws and jurisprudence that link all the three.

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4. (1966). *Universal Declaration of Human Rights*, Publ, Art. 1, Art. 29; International Covenant on Economic, Social and Cultural Rights, (16 Dec.), 993 U.N.T.S. 3, Publ (the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observation of internationally-guaranteed human rights. GA Res. 35/48 of 30 October 1980.