



Environmental protection and human rights in Ethiopia

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Abstract

The importance of the environment to the fulfillment of human rights is widely accepted at international law. It is argued that human rights law can make a positive contribution to environmental protection, but the precise nature of the connection between the environment and human rights warrants more critical analysis.

This paper examines the historical background on Environmental and Human Rights. The principles of human rights, the right to life and the right to development cannot be realised in the absence of the right to a healthy environment. This article discusses about the objectives of human rights and international environmental law. The fundamental issue is whether international human rights law can contribute to environmental protection whether international environmental policies can serve human rights concerns. This article focuses on the historical development of Environmental Law and Human rights, constitutional provisions, Environmental Justice and Equity in Ethiopia has been discussed. Further, the role of Ethiopian judiciary in addressing environmental protection and human rights and the link between human rights and environmental protection is also discussed.

Keywords: international human rights law-international environmental policy-historical development of environmental law and human rights-FDRE constitution-environmental justice and equity in Ethiopia

1. Introduction

What is “Environment”? The word *environment* is derived from an ancient French word “*environner*”. Environmental rights mean access to the natural resources that enable survival of human beings including shelter, food, water land and air. It includes more particularly ecological rights, including the right to certain beetle to survive or the right for an individual to enjoy nature. It also includes the natural social and culture that influence the life of an individual or society. Environmental problems may arise due to traffic pollution, noise, congestion, crimes. Geographically, *environment* can refer to a limited area or encompass the entire planet, including the atmosphere and stratosphere^[1].

The Declaration of the 1972 Stockholm Conference on the Human Environment (UNCHE) stated that –“*both aspects of man’s environment, the natural and man-made, are essential for his well-being and enjoyment of basic human rights.*”

2. Human Rights and the Environment

In recent years the relationship between human rights and environmental issues has become an important issue. Environmental degradation and human rights was first placed on the international agenda in 1972, at the UN Conference on the Human Environment. Principle 1 of the ‘Stockholm Declaration on the Human Environment’ establishes a foundation for linking human rights and environmental protection, declaring that man has a ‘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, and he bears a sole responsibility to protect and improve the environment for present and future generations’. As a result of the 1972

Conference, the United Nations Environment Program (UNEP) was set up. In 1992, twenty years after the first global environment conference, the United Nations Conference on Environment and Development (UNCED), also known as the Earth Summit, took place from 3-14 June in Rio de Janeiro^[2].

The fundamental issue is whether international human rights law can contribute to environmental protection, or conversely, whether international environmental policies can serve human rights concerns^[3].

3. Is Environmental Rights are Human Rights?

Environmental rights include political rights like rights for indigenous peoples and other collectivities, the right to information and participation in decision-making, freedom of opinion and expression, and the right to resist unwanted developments.

Environmental rights mean access to the unspoiled natural resources that enable survival, including land, shelter, food, water and air. It includes more purely ecological rights, including the right for a certain beetle to survive or the right for an individual to enjoy an unspoiled landscape.

Many of these rights, particularly the political ones, are well-established and enshrined in various conventions and agreements. All of these rights are equally important, and they are all interdependent. Environmental rights are human rights, as people's livelihoods, their health, and sometimes their very existence depend upon the quality of and their access to the surrounding environment as well as the recognition of their rights to information, participation,

² <http://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/human-Rights-in-relation-to-other-topics/human-rights-and-the-environment>.

³ Dinah Shelton: <https://gnhre.org/2015/08/19/human-rights-environmental-rights-and-the-right-to-environment-d-shelton/>

¹ Judicial Handbook on Environmental Law (UNEP, 2005).

security and redress ^[4].

All these Rights can be asserted in a variety of ways for example, by appealing directly to the violating government, international financial institution or corporation; through international, regional and national courts; by applying public and media pressure; and by building coalitions with others seeking similar rights ^[5].

4. The Relation between Human Rights and Environmental Protection

The importance of the environment to the fulfillment of human rights is widely accepted at international law. The human beings by virtue of birth on this earth possess rights to the environment beyond what is necessary to support basic human needs. It is argued that human rights law can make a positive contribution to environmental protection, but the precise nature of the connection between the environment and human rights warrants more critical analysis ^[6].

There are three main dimensions of the interrelationship between human rights and environmental protection viz:-

- The environment as a pre-requisite for the enjoyment of human rights
- Certain human rights, especially access to information, participation in decision-making, and access to justice in environmental matters, as essential to good environmental decision-making.
- The right to a safe, healthy and ecologically-balanced environment as a human right in itself.

The Stockholm Declaration, and the Rio Declaration, shows the link between human rights and dignity and the environment was very prominent in the early stages of United Nations efforts to address environmental problems ^[7].

In a series of resolutions, the former United Nations Commission on Human Rights and the United Nations Human Rights Council have drawn attention to the relationship between a safe and healthy environment and the enjoyment of human rights. Most recently, the Human Rights Council in its resolution 7/23 of March 2008 and resolution 10/4 of March 2009 focused specifically on human rights and climate change, noting that climate change-related effects have a range of direct and indirect implications for the effective enjoyment of human rights. These resolutions have raised awareness of how fundamental the environment is as a prerequisite to the enjoyment of human rights.

By the joint initiation of the UNEP, the UN Office of the High Commissioner for Human Rights, and the UN Special Rapporteur on human rights and the environment have jointly made efforts to identify, promote and exchange views on good practices relating to the use of human rights obligations and commitments to inform, support and strengthen environmental policymaking, especially in the areas of environmental protection and management.

In the two field of human rights and the environment, UNEP

⁴ <https://www.foei.org/what-we-do/environmental-rights-human-rights>

⁵ <https://www.foei.org/what-we-do/environmental-rights-human-rights>

⁶ Macquarie Journal of International and Comparative Environmental Law, 8(1), pp. 36-47.

⁷ Joint statement by UN Special Procedures on the occasion of World Environment Day Climate Change and Human Rights - 5 June 2015

and partners also identified challenges and problems in the balancing of the protection of human rights and the protection of the environment ^[8].

5. Legal Framework on Human Rights and the Environment

1. Human beings are part of nature and human rights are correlated with the environment in which we live. Environmental harm interferes with the enjoyment of human rights, and the exercise of human rights helps to protect the environment and to promote sustainable development.
2. The framework principles on human rights and the environment summarize the main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. They provide integrated and detailed guidance for practical implementation of these obligations, and a basis for their further development as our understanding of the relationship of human rights and the environment continues to evolve.
3. The framework principles are not exhaustive. Many national and international norms are relevant to human rights and environmental protection, and nothing in the framework principles should be interpreted as limiting or undermining standards that provide higher levels of protection under national or international law.
4. States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.
5. States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment.

6. Historical Development of Environmental Law in Ethiopia

The environmental issues came in Ethiopia at the wake of 1974 and 1984 as a result of draught due to the result of agricultural degradation or environmental mismanagement in the country.

In Ethiopian legal system, National environmental law includes the provisions concerning the environment in the 1995 FDRE constitution. Different environmental treaties ratified by the House of Representatives according to Art. 9 (4) of constitution and all laws federal and regional concerned with the environment i.e. Forest, Land, Water etc. The FDRE Constitution reads as ^[9]

1. All persons have the right to clean and healthy environment.
2. All persons who have been displaced or whose livelihoods have been adversely affected as a result of state programs have the right to commensurate monetary or alternative means of compensation, including relocation with adequate state assistance.

Equally Art.92 of the constitution further states that ^[10]:

1. The government shall endeavor to ensure that all Ethiopians live in a clean and healthy environment.
2. The design and implementation of programs and projects of development shall not damage or destroy the

⁸ Human Rights and the Environment: Joint Report OHCHR and UNEP

⁹ The Constitution of the Federal Democratic Republic of Ethiopia of 1995, Neg. Gaz., 1st Year No. 1, Art. 44.

¹⁰ Id., Art. 92

environment.

3. People have the right to full consultation and to the expression of views in planning and implementation of environmental policies and projects that affect them directly.
4. The government and citizens have the duty to protect the environment

7. Environmental Justice and Equity in Ethiopia

The Supreme Court of India indicated some of the elements of the concept of environmental justice ^[11]:

“Public nuisance because of pollutants being discharged by big factories to the detriment of the poorer sections is a challenge to the social justice component of the rule of law.”

In Ethiopia, a decree is not executed automatically, but only upon application by the decree holder to the court which issued the decree ^[12]. In legal litigation, remedies are broadly categorized as civil and criminal liability. Similarly, in Environmental Law, the legal remedies are broadly categorized as civil and criminal liability. With regard to Environmental law, the legal remedies that are designed to maintain the status quo are provided in the Criminal Code, Tort Law, and other Enabling Statutes of Environmental Law.

Article 3 of the Criminal Code in tandem with Article 12(3) of Pollution Control Proclamation, it is clear that in case when someone pollutes the environment the court which entertains the case would take judicial notice of the severe penalty on either of these legal instruments. In other words, unless the provisions of the Criminal Code provide more severe penalties, the penalties laid down under this proclamation shall be applicable.

Finally, the persons are held liable for violations of environmental laws or causing environmental harm may be ordered to appear before the court with plans for compliance or remediation and targets and timetables for completing the tasks set forth. Courts in different legal systems have appointed commissions to monitor compliance and report back to the court on measures needed or adjustments that may be required. Often considerable judicial initiation is needed to ensure fulfillment of structural injunctions.

The relationship between human rights and environmental protection is not linear. It has not progressed harmoniously and sometimes its nature and scope has been vigorously debated. Sometimes a collision or conflict was inevitable and at other times its implementation is remains questioned. The Ethiopian judiciary has applied a human rights lens to analyse and address environmental protection. Two human rights, the right to a healthy environment and the right to development are examined in this context. Recognising and promoting the intert relationship between human rights and environmental protection is crucial ^[13].

Conclusion

This article will suggest that although human rights and environmental protection represent separate social values, the overlapping relationship between them can be resolved in a manner which will further both sets of objectives. A clearly and narrowly defined international human right to a

safe and healthy environment, currently emerging in international law, can contribute to this goal ^[14].

A wide range of international, regional and domestic instruments refer to the relationship between the environment and human rights, still there a gap between Law and the society.

Even the society is not aware of Environmental and Human right laws. The traditional practice of cooking through the fire wood is still following and continuing in Ethiopia. Due to which the society cutting down green forestry and spoiling the nature for their livelihood. Perhaps this may be due to poverty.

The responsible governments should encourage the society to use biogas or natural gas for cooking their food stuffs. The federal and the state governments may offer gas cylinders and gas stoves on subsidiary basis so that they can avoid cutting down green forest and save the environment.

There is a intensive need to educate the society to save environment through the public media, radio, Television, newspapers etc. The NGOs contribution is highly needed in this regard.

Finally, the persons who are responsible for violations of the environmental and human right laws may be punished and penalties may be imposed seriously. Then only the environmental and human rights together can be protected effectively.

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¹¹ Supreme Court of India, Ratlam Municipality v. Vardihichand, AIR 1980 SC 1622.

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¹⁴ Dinah Shelton: <https://gnhre.org/2015/08/19/human-rights-environmental-rights-and-the-right-to-environment-d-shelton/>