

Environmental Rights are a Human Right to a Healthy Environment: A Brief Review

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ABSTRACT: Environmental Rights is a branch of law that deals with the protection and safeguarding of the environment; and, is a set of legal rules that regulate people's relationships with nature, and it can be said that it is an interdisciplinary right, based on rules of private law, public law, administrative law, and criminal law. Therefore, it regulates the creation, modification, and fulfillment of legal relationships that condition the enjoyment, conservation, and improvement of the environment, inducing actions and abstentions in favor of the environment and the common good. As such, it is a fundamental human right to a safe, clean and healthy environment; and sustainable environmental governance cannot exist without the establishment of and respect for human rights.

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Initial Considerations

Considering that Nature is a set of external physical, chemical, and biological components with which living beings interact (including human beings, fauna, flora, and microbiota), the need arises to think of our relationship with Nature as a subject of law; that is, nature can be considered a legal person (Zaffaroni, 2008; 2011). So human beings can't do whatever they want with it without facing criminal consequences. The idea of the rights of nature was also been proposed in 1972 by Christopher D. Stone, a professor at the University of Southern California (Stone, 1972).

Legislative policies on environmental matters have followed the traditional model, which consists of the enactment of a law, followed by the sanction of the infringing conduct. Legal research, on the other hand, is consistent with this perspective, as there is a large number of academic works based on criminal and civil liability, particularly in actions for compensation.

Given that environmental law is the set of legal norms that regulate people's relationships with nature, it can be said that it is an interdisciplinary law (Lorenzetti, 2008; Vera García, 2021). On the other hand, it has some drawbacks, as there are environmental goods that are not renewable, such as the climate or endangered species, while others, such as waterways or air, in the event of pollution, can only be recovered at a very high economic and social cost. Therefore, any strategy that relies solely on sanctions is destined to fail (Lorenzetti, 2008).

The essential relationship between environment and human rights

Human rights and the environment are intrinsically tied. According to the United Nations Environment Programme, ER means any proclamation of a human right to environmental conditions of a specific quality, based on the fact that human rights and the environment are intertwined, and the right to a healthy environment is valued in more than 100 constitutions (UNEP, 2019).

In the field of law, the so-called legal environmentalism, which implied the transition from environmentalism to the legal field, led to the development of a new branch of law, environmental law, and, of course, its transfer to criminal law, such as environmental criminal protection or environmental criminal law, which gave rise to a considerable abundance of conventions, declarations, and projects at the international level, all of them linked to international human rights law (Hunter, 2021). Another author, Franco Zamora (2022), indicates that two paradigms are usually addressed in climate change mitigation, on the one hand, legal environmentalism, based on environmental justice, and on the other, legal environmentalism, based on the principle *in dubio pro natura*. It is worth remembering that the origin of the precautionary principle and the way in which it is inserted in the legislation of several Latin American countries dates back to the German socio-political tradition and was based on *good domestic management*, under the notion of this principle it is sought not only to define it, but also to differentiate it from other principles of environmental law

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(Ahteensuu, 2008; Martínez and García Rey, 2008; Russo & Russo, 2009). In the light of Environmental Rights (ER) in the international legal framework, it can be seen that it is in the Americas that the most significant advances have been made. By definition, international environmental law is the set of agreements and principles that reflect the world's collective effort to manage our transition to the Anthropocene by solving our most serious environmental problems, such as climate change, ozone depletion, and the mass extinction of wildlife (Hunter, 2021; Whittaker, 2023).

Likewise, the United Nations Human Rights Council (NUCDH, 2018) recognized that "*A safe, clean, healthy and sustainable environment is essential for the full enjoyment of a wide range of human rights, including the rights to liberty, life, health, food, water and sanitation.*" This highlights the importance of ideal environmental features; But today, other aspects are added; related to subjectivity and creativity; It seems that people who have grown up with the advancement of technology, may think and experience the way of perceiving the environment and creativity differently than their predecessors as a result of the influence of the social environment and social networks (Montuori, 2018). Here the panorama is more complex, because the social requires creativity and a multiplicity of points of view and, therefore, new challenges arise; especially for the younger population; that with their creativity and transformative leadership they can articulate social change (Montuori, 2018; Montuori & Donnelly, 2017).

In short, both the United Nations and various authors support the idea that a **healthy environment** is a human right and warn about the destruction of our environment that puts the future of humanity at risk.

In addition, it is important to note that energy, natural resources, and environmental issues involving technology, sociology, and economics must be weighed against interdisciplinary interaction; and that human beings have responsibility for nature (Passmore, 1974). Only with a full and clear knowledge of our society and the technology involved can we develop a proper understanding of our problems and establish a truly objective basis for making our plans to convert the potential energy of natural resources into useful energy (Ommen, 2022).

Having said that ER is a Human Right to a Healthy Environment, it also implies that ER is part of the so-called ESCER (Economic, Social, Cultural, and Environmental Rights), that ER is interconnected with all areas of human activity in a cross-cutting areas model (Johannson, 2021). Environmental rights and the Sustainable Development Goals (SDGs) are also linked. The SDGs are at the core of the 2030 Agenda and show a comprehensive, united vision and renewed international collaboration. Together, they build a transformative vision towards people- and planet-centered sustainable development, based on human rights tags. Human rights create the essential conditions for sustainable development. The 2030 Agenda recognizes that inclusive and participatory economies are necessary for sustainable development.

On 4 March 2018, the Latin American and Caribbean region made history when it adopted the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, at Escazú, Costa Rica. Initiated at the United Nations Conference on Sustainable Development (Rio+20) and rooted in the tenets of Principle 10 of the 1992 Rio Declaration on Environment and Development, the Regional Agreement was the result of a two-year preparatory phase and nine intense meetings of its negotiating committee. Led by Chile and Costa Rica, as co-chairs, and five other Presiding Officers (Argentina, Mexico, Peru, Saint Vincent and the Grenadines, and Trinidad and Tobago), the negotiations brought together government delegates, representatives of the public, experts, academics and other interested stakeholders who participated actively on a collaborative basis and an equal footing (ECLAC, 2023).

Linking all of the above to the so-called "European Green Deal", which goes beyond the sectoral approach of environmental and climate policy to become the economic and social matrix as a whole; it can be assumed that political agreements are essential to have an environmental agenda and commitment to the protection of society, in which the environment is included (Sanahuja, 2021). However, although environmental rights have made nature the subject of international law, this does not imply that human beings have the same right to benefit from the "common heritage of mankind" (Leff, 1998). Environmental education plays a very important role in environmental rights. Failure to address, from the field of education, the threat that Climate Change poses to the environment may mean a setback in the environmental rights achieved as well as a stagnation of the claims that are emerging around the planet; and adhere to the concept, as an integrative approach that seeks to overcome the limitations of eco-literacy, social and cultural aspects. This approach seeks to form citizens aware of their relationship with the natural and social environment, capable of making informed and responsible decisions regarding the care and protection of the planet and the life that inhabits it, in order to build a new and necessary planetary citizenship (González-Gaudio, 2007; Locke et al., 2013; Figueroa and Russo, 2023).

Other authors include holistic education, which, according to Korthagen (2004), is better adapted than conventional education to a new and increasingly accepted vision of what it means to be human and their relationship with the environment. However, the central points of view for holistic education are not new, they are timeless and result from a cultural paradigm shift that began in the 1960s and is increasingly being incorporated.

There are two central questions determining the pedagogy of teacher education: (1) What are the essential qualities of a good teacher, and (2) How can we help people to become good teachers? The objective is not to present a definitive answer to these questions, but to discuss levels of change that could serve as a framework for reflection and development. The model highlights relatively new areas of research, viz. teachers' professional identity and mission. Appropriate teacher education interventions at the different levels of change are discussed, as well as implications for new directions in teacher education.

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Concluding remarks

The fulfillment of all human rights is deeply connected to the environmental issue. Not only rights to life and health but also other social, economic, cultural, as well as political, and civil rights, can be fully enjoyed only in a healthy and sustainable environment. This relationship is a complex and evolving issue. While the connection between the two has been recognized for some time, international human rights law has only recently begun to address environmental damage as an infringement of human rights. Environmental information is also important. According to Whittaker (2023), the way the public is involved with environmental matters is primarily centered around the supply of environmental news to the public by the state and the media. Also, environmental education and eco-literacy as components of education for sustainable development are related to the environment in many ways (Locke et al., 2013).

It can be said that the concept of Environmental Rights has evolved through controversies and changes of direction. While the Charter of the United Nations of 1945 marked the beginning of modern international human rights law, the Stockholm Declaration of 1972 is generally regarded as the starting point of the modern international framework for environmental protection.

Environmental rights are considered to be a third-generation human right that recognizes the right to a healthy and ecologically balanced environment. This right has developed over time and has become a global discipline that involves everyone in the protection of the environment. The right to a clean environment is now considered a fundamental human right, as it is essential for human communities to survive and maintain a sufficient and secure standard of living.

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