

# Human Rights, Poverty Reduction, and Environment: Are They Complementary or Competing Concepts?

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## Abstract

This writing clearly shows as Human Rights and Environmental protection on one side, and Human Rights and Poverty Reduction on the other side are complementary than competing concepts. Results of different literature review indicate that human rights and environment are mutual supportive because damage to one of them undermine the enjoyment of the other. At same time poverty mean infringement on human rights but not social problem from human rights perspective. Environmental protection may be cast as a means to the end of fulfilling human rights standards. Also human rights serve as tool to achieve adequate levels of environmental protection and promotion of procedural or participatory rights, right to information, and right of access to justice and redress in connection with environmental concerns. International treaties show that poverty and environmental concerns are closely linked and cannot be tackled in isolation. Poverty reduction and improved environmental outcomes mean improvement in the health of poor peoples'. Economic development and poverty reduction strongly depend on improving management of the environment and natural resources, the natural capital of the poor. Environmental management cannot be treated separately from other development concerns, but requires integration into poverty reduction and sustainable development efforts.

**Keywords:** Human Rights, Poverty Reduction, Environmental Protection, Complementary, and Competing

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## 1. Introduction

According to Mubangizi,<sup>1</sup> a variety of different concept can be used to refer to activities aimed at fighting poverty: Poverty reduction, poverty alleviation<sup>2</sup>, poverty relief<sup>3</sup> and the eradication of poverty.<sup>4</sup> However, in the light of the shortcomings of some of these concepts, poverty reduction is the most suitable concept to use.<sup>5</sup> Poverty reduction can be defined as the process through which the causes of deprivation and injustice are addressed by considering the level, degree, size and extent of the poverty and then attempting to reduce it.<sup>6</sup>

Poverty is so deeply rooted in most communities that it is unrealistic to assume that it can be utterly eradicated.<sup>7</sup> As is the case with realization of human rights, poverty reduction cannot be achieved immediately<sup>8</sup>, but is a progressive process that needs go hand to hand with the setting of intermediary and final goals.<sup>9</sup>

Human rights have emerged in national and international legal systems as a means of enhancing the lives of people in a position to claim their rights.<sup>10</sup> Human rights are internationally agreed standards which apply to all human beings.<sup>11</sup> They encompass the civil, cultural, economic, political and social rights set out in the Universal Declaration of Human Rights (UDHR 1948). The key international human rights treaties-the International Covenant on Economic, Social and Cultural Rights (ICESCR 1966) and the International Covenant on Civil and Political Rights (ICCPR 1966) further elaborate the content of the rights set out in the UDHR and contain legally binding obligations for the government that become parties to them. But what do these right mean for the one

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<sup>1</sup> This distinction is based on Mubangizi 2005 SAJHR 34-35

<sup>2</sup> Poverty alleviation refers to public and private conduct aimed at addressing the lack of food, shelter, water and other basic necessities of life that enable people to function meaningfully in society. The basic necessities of life naturally include the right to healthy and consequently access to medicines. However, this term is immeasurable and implies that poverty can be made tolerable or the suffering of the poor can be made less serious. See Mubangizi 2005 SAJHR 34.

<sup>3</sup> Poverty relief can be seen as form of help and support afforded to the poor, when in urgent need, (usually after a natural disaster) as such can be seen as an ad hoc measure falling under the ambit of disaster control. See Mubangizi 2005 SAJHR 34.

<sup>4</sup> The eradication of poverty, on the other hand, creates the impression that poverty can be done away with in its entirety. Although this is the ideal goal of all activities aimed at the reduction of poverty, it is unrealistic, over ambitious and unattainable as it implies the total elimination of poverty by removing all of its causes. Mubangizi 2005 SAJHR 34-35 also points out that, although these terms do not have the same meaning, they are often used in the alternative and in a confusing manner.

<sup>5</sup> The shortcoming referred to can be found in p 19-21 above

<sup>6</sup> Mubangizi 2005 SAJHR

<sup>7</sup> UNHCHR 2002 <http://www.bit.ly/13KMkyd> guideline 4 Para 62 (henceforth UNHCHR Human Rights Approach to Poverty Reduction Strategies)

<sup>8</sup> UNHCR Human right approach to poverty reduction strategies guideline 4 Para 62

<sup>9</sup> Id, Para 68

<sup>10</sup> Stephen P Marks poverty and human rights 2017 in p 1

<sup>11</sup> OHCHR and WHO Human rights, Health and Poverty reduction strategies 2008 in p 5

fifth of humanity who live in misery and lack the basic necessities in terms of income, health, education, food, and employment? Without minimal level of social and economic status, the extremely poor might be expected to see human rights as luxury beyond their reach.<sup>1</sup> For them the elimination of poverty is likely to be perceived as the highest priority in the human right struggle.

Human rights law recognizes the severe constraints that poor countries face and allows for the fact that it may not be possible to realize all economic, social and cultural rights for every one immediately.<sup>2</sup> However, Governments are obliged to provide a long term plan that will lead to the progressive realization of human rights.<sup>3</sup> They should also take concrete steps, including financial measures and political commitments in accordance with available resources, targeted deliberately towards full realization of human rights. In situations where a significant number of people are deprived of human rights, the State has the duty to show that all its available resources—including through requests for international assistance, as needed—are being called upon to fulfill these rights.

The concept of a human right to an environment of a particular quality has been present in international environmental and human rights discourses for several decades. It is commonly understood as having first been articulated in the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment, which recognized that Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and well-being.<sup>4</sup> Variants of a right to an environment of a particular quality can be found in numerous national constitutions, as well as in the regional human rights instruments of Africa and several international declarations and other soft-law instruments. The right is not included in any of the multilateral United Nations human rights conventions, although these treaties do guarantee numerous human rights which could be said to possess environmental dimensions, such as the rights to health, life, and an adequate standard of living.

United Nations bodies including the Office of the High Commissioner for Human Rights, the United Nations Environment Programme and the Human Rights Council have recognized the close relationship between the environment and human rights, and have acknowledged the need for further work on the possible development of the law in this area.<sup>5</sup> It is generally accepted that human rights and the environment are mutually supportive, as environmental degradation can undermine the enjoyment of human rights, while strong human rights protections contribute to better environmental management and conservation, but there is disagreement as to exactly what form this relationship should take.<sup>6</sup>

This writing focuses on the interrelation of human rights and poverty reduction on one side, and the other side the interrelation of human rights and environmental protection. That means it wants to show the interrelation or complementarity than competences. Because human rights sensitive understanding of poverty reduction and environmental protection facilitates development of more effective and equitable responses to the multiple dimensions of poverty and environmental problems.

## **2. Human Rights, Poverty Reduction, and Environment**

### **2.1 Human Rights and Poverty Reduction**

If the internationally recognized human rights in their entirety had been fully implemented, poverty would not have existed.<sup>7</sup>

Poverty is thus multidimensional in nature and cannot be defined as the mere lack of sufficient income. Consequently, a multidimensional approach to poverty will be followed. According to this approach, the non-fulfillment of human rights is inseparably part of a lack of command over economic resources, but is not exclusively limited thereto.<sup>8</sup>

The Sen's capability approach defines poverty as the absence or inadequate fulfillment of the basic freedoms to avoid illness for instance.<sup>9</sup> The extent to which a person is free to pursue good health or is free to avoid ill-

<sup>1</sup>Stephen P Marks poverty and human rights 2017 in p 2

<sup>2</sup>OHCHR and WHO Human rights, Health and Poverty reduction strategies, p 6, 2008

<sup>3</sup>Id, p 6

<sup>4</sup>United Nations Environment Programme, Declaration of the United Nations Conference on the Human Environment, Stockholm, 16 June, 1972. Principle one of the Declaration reads: Man has the 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 solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.

<sup>5</sup>See Office of high commissioner for human rights, analytical study on the relationship between human right and environment, UN Doc/A/HRC/19/34, December 2011

<sup>6</sup>Donald Anton and Dinah Shelton, Environmental protection and Human rights (Cambridge University Press, 2011)

<sup>7</sup>Eide Human Rights and Elimination of Poverty 118

<sup>8</sup>UNHCHR Human Rights and Poverty Reduction: A Conceptual Framework 8.

<sup>9</sup>In this regard, freedom interpreted broadly and as such includes both positive and negative freedoms. UNHCHR Human Rights and Poverty Reduction: A Conceptual Framework 9. It is this aspect of the capability approach that makes it a suitable conceptual basis for human rights. Human rights needs to be respected, protected, and fulfilled, all of which implies respect for freedoms. Human rights obligations and the

health indicates the person's level of well being.<sup>1</sup> The poor, however, have limited opportunities to pursue well-being, making this the defining characteristic of poverty.<sup>2</sup> Capabilities in this regard, refer to a person's ability in the form of freedoms and opportunities to achieve such well-being,<sup>3</sup> making poverty a person's lack of ability to achieve well-being through the pursuit of good health or the avoidance of illness.<sup>4</sup> According to the capability approach, poverty is indicative of extreme deprivation. Therefore, only a lack of those capabilities that can be classified as basic will amount to poverty.<sup>5</sup> Furthermore, according to the capability approach, a lack of command over economic resources plays an important role in defining poverty as it is helpful in distinguishing between poverty and a general low level of well-being.<sup>6</sup>

Where the capabilities approach defines poverty as the absence or inadequate fulfillment of basic freedoms or basic capabilities enabling people to pursue well-being, the human rights-based approach to poverty argues that people have an inalienable right to these basic capabilities.<sup>7</sup> In the human rights-based approach, poverty is thus defined as the inadequate fulfillment of a person's human right to basic capabilities.<sup>8</sup> Thus, poverty is not only a lack of income or economic and material resources; it is an infringement on human dignity and also on human rights.<sup>9</sup> A human rights-based definition of poverty can lead to a more suitable reaction to the many facets of poverty while paying attention to the vulnerability and daily infringements of human dignity that are coupled with poverty.<sup>10</sup> The United Nations Committee on Economic, Social and Cultural Rights (CESCR)<sup>11</sup> defines poverty in the light of the International Bill of Rights by stating that poverty may be defined as a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security, and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights. This definition is regarded as the most comprehensive and rights-sensitive definition of poverty to date.<sup>12</sup>

The Human Development Report 2000 conveyed the central message that poverty is an infringement on freedom, and that the elimination of poverty should be addressed as a basic entitlement and a human right-not merely as an act of charity.<sup>13</sup> Transparency and accountability are deemed essential by poor people to bring about institutional change to reduce poverty, including the way the poor are treated by service providers.

Poverty reduction and human rights are not two projects, but two mutually reinforcing approaches to the same project.<sup>14</sup> One of the central ideas behind the human rights-based approach to poverty reduction is that: poverty reduction no longer derives merely from the fact that the poor have needs but also from the fact that they have rights-entitlements that give rise to legal obligations on the part of others. Poverty reduction then becomes more than charity, more than a moral obligation-it becomes a legal obligation.<sup>15</sup> As the social phenomenon that probably has the largest detrimental effect on human rights, poverty will not be eradicated without the fulfillment of human right.<sup>16</sup> Poverty in itself is seen as a denial of human rights, while the inadequate or non fulfillment of human rights causes poverty.<sup>17</sup> According to the CESCR,<sup>18</sup> anti-poverty policies will be more effective, sustainable and meaningful to the poor if they are based on international human rights. Furthermore, the International Bill of Rights contains provisions that are directly relevant to the reduction of poverty.<sup>19</sup> Various articles contained in the ICESCR are relevant to poverty and can even be seen as synonymous with aspects of poverty.<sup>20</sup>

The development of concepts that link poverty to a lack of rights, has led to more attention being paid to

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capabilities approach thus focus on the same freedoms. In this regard see Osmani 2005 journal of human development in p 213-214.

<sup>1</sup> UNHCHR Human Rights and Poverty Reduction: A Conceptual Frame Work 6.

<sup>2</sup> Id, A Conceptual Frame Work 6-7.

<sup>3</sup> Id, A Conceptual Frame Work 6

<sup>4</sup> Id, A Conceptual Frame Work 6.

<sup>5</sup> Id, A Conceptual Frame Work 7; UNHCHR Human Rights and Poverty Reduction Strategies Para 46. See also Osmani 2005 journal of human development in p 214.

<sup>6</sup> Id, A Conceptual Frame Work 7; See also Osmani 2005 journal of human development in p 214-215.

<sup>7</sup> Ibid, A Conceptual Frame Work 6-7, 9. See also Salomon Global Responsibility for Human Rights 48.

<sup>8</sup> Id, A Conceptual Frame Work 9-10.

<sup>9</sup> UNHCHR Date Unknown <http://www.bit.ly/13jG5t9>

<sup>10</sup> Id

<sup>11</sup> The CESCR regards this definition as multidimensional notion of poverty which reflects the indivisibility and interdependence of all human rights.

<sup>12</sup> Kulindwa and Lein Water and Poverty

<sup>13</sup> UNDP Poverty reduction and Human Rights: A Practice Note June 2003 in p 2

<sup>14</sup> Ibid, A Conceptual Frame Work 3

<sup>15</sup> Spicker et al poverty p 95

<sup>16</sup> Mubangizi 2005 SAJHR 32. See also Van Genugten and Perez-Bustillo Human right as a source of inspiration n 201. Ochoa Poverty and Human right p 60

<sup>17</sup> Osmani 2005 Journal of Human Development p 206, See also Mubangizi 2005 SAJHR 36.

<sup>18</sup> See UNCESCR Poverty and the ICESCR Para 13

<sup>19</sup> In this regard see Articles 16, 25 & 26 of the ICCPR, Article 12 of the ICESCR and Article 25 of UDHR.

<sup>20</sup> Van Genugten Use of Human Rights Instruments n 102, See also Salomon Global responsibility for Human Rights 48.

human rights-based approaches as a means to ensure basic security and poverty reduction.<sup>1</sup> By viewing poverty as the denial of human rights, the focus is moved away from poverty reduction as an issue exclusive to economic development towards the rights and obligations entrenched within the formal legal system.<sup>2</sup>

In the context of human rights, poverty is thus no longer seen as a social problem but rather as an infringement on human rights, where relationships characterized by dominance and control deprive people of the fulfillment of their basic human rights.<sup>3</sup>

This link between poverty and human rights has been acknowledged and promoted by the UN by it granting the High Commissioner for Human Rights the mandate to formulate guidelines for the integration of human rights into poverty reduction strategies.<sup>4</sup> These guidelines acknowledge that a human rights-based approach to poverty reduction entails that policies and institutions attempting to reduce poverty are based on the norms and values of international human rights.<sup>5</sup> This approach links poverty reduction to rights and obligations. The eighteen guidelines can be divided into three sections: section one sets out the basic principles that need to be considered when formulating poverty reduction strategies in terms of a human rights-based approach.<sup>6</sup> Section two sets out the human rights approach according to which the content of a poverty reduction strategy can be determined.<sup>7</sup> In this section, the main elements that ought to be included into strategies aimed at fulfilling each human right relevant to poverty reduction are identified.<sup>8</sup> Lastly, section three explains how the human rights approach can lead to monitoring and accountability as aspects of poverty reduction strategies.<sup>9</sup> There is no doubt that these guidelines address complex issues which are of the utmost importance for the relationship between poverty and human rights.<sup>10</sup>

## 2.2 Human Rights and Environment

The 1972 Stockholm Declaration on the Human Environment recognized the link between human rights and environmental protection stating that man has the 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.<sup>11</sup> The Stockholm Declaration does not actually proclaim a right to the environment, but implies that the exercise of other human rights indispensably requires basic environmental health.<sup>12</sup> Considering environmental protection as a precondition to the exercise of fundamental human rights, for instance, has inherent risks because the alleged lack of these preconditions might be and has been used to deny human rights.<sup>13</sup> Another view sees environmental protection not as a precondition for human rights, but as an integral part of their enjoyment.<sup>14</sup> The United Nations Human Rights Committee, for instance, has decided a case that recognized environmental harm as a valid cause of action.<sup>15</sup> In cases before the European Commission on Human Rights and the European Court on Human Rights, existing human rights to some extent afforded environmental protection through the application of the right to life, privacy, and property.<sup>16</sup> Yet it is clear that environmental concerns are not a cause of action by themselves, but have to affect an existing human right granted by the Convention.<sup>17</sup>

The relationship between environmental issues and human rights is increasingly interdependent.

International NGOs such as Greenpeace and Amnesty International work towards shifting their respective areas of concern out of exclusive national jurisdiction under Art.2(7) of the UN Charter up on the international level and towards restraining government and private actors' power in this respect on the domestic level.<sup>18</sup>

Some authors suggest that human rights norms, which are already protected under international instruments and domestic constitutions, play an important role in environmental protection. They suggest that the existing rights protected under international instruments and national constitutions are sufficient to provide

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<sup>1</sup> Id, p 94-95

<sup>2</sup> Id, p 95

<sup>3</sup> Id, p 95

<sup>4</sup> UNHCHR Human Rights and Poverty Reduction: A conceptual frame work 35, UNHCHR Human Rights Approach to Poverty Reduction Strategies Para 1.

<sup>5</sup> UNHCHR Human Rights Approach to Poverty Reduction Strategies Para 3.

<sup>6</sup> UNHCHR Human Rights Approach to Poverty Reduction: A conceptual frame work 36, UNHCHR Human Rights Approach to Poverty Reduction Strategies guidelines 1-5.

<sup>7</sup> Id. UNHCHR Human Rights Approach to Poverty Reduction strategies 18.

<sup>8</sup> Id. UNHCHR Human Rights Approach to Poverty Reduction strategies guidelines 6-15.

<sup>9</sup> Id. UNHCHR Human Rights Approach to Poverty Reduction strategies guidelines 16-18.

<sup>10</sup> Mubangizi 2005 SAJHR 38, UNHCHR Human Rights Approach to Poverty Reduction strategies Para 42

<sup>11</sup> Shelton, D Human Rights, Environmental Rights and the Right to Environment 2015

<sup>12</sup> Id

<sup>13</sup> Id

<sup>14</sup> Id

<sup>15</sup> Id

<sup>16</sup> Ibid n (51)

<sup>17</sup> Id

<sup>18</sup> Alan E Boyle and Michael R Anderson, Human Rights Approaches to Environmental protection 1996

environmental protection.<sup>1</sup>

Existing human rights treaties contain provisions on the right to health, the right to decent living conditions and the right to decent working condition all of which may bear directly upon environmental conditions.<sup>2</sup>

The collective right to self-determination as recognized in common Art. 1 of the International

Covenants, could also contribute to environmental protection. Common Article 1 of the Covenant on Economic, Social and Cultural Rights and the Covenant on Civil and Political Rights reiterate that all peoples have the right to self-determination, by virtue of which, they freely determine their political status and freely pursue their economic, social and cultural development. This includes the right to freely dispose of their natural resources. Moreover, in no case may a people be deprived of its own means of subsistence (Article 1). It is a severe indictment of the inadequacy of international environmental law that pollution and environmental degradation have made a mockery of these rights for many communities worldwide.<sup>3</sup>

Where the mere mobilization of existing rights does not prove adequate to protect environmental needs, it is argued that existing rights must be reinterpreted with imagination and rigor in the context of environmental concerns which were not prevalent at the time existing rights were first formulated. Courts in India have made considerable progress in reinterpreting certain rights to include environmental protection norms. For example, the Indian judiciary has held that the right to life includes the right to live in a healthy environment, a pollution free environment, and an environment in which ecological balance is protected by the state.<sup>4</sup>

Hence, it is not surprising that this complementarity is recognized and enshrined in the body of international development law that has been recently emerging through the UN Declaration on the Right to Development (1986) and the recent Declaration and Programmes of Action of the UN Global Conferences on Development. This newest of human rights, the right to development holistically integrates both human and environmental concerns and goals.

Most obviously, and in contrast to the rest of international environmental law, a human rights perspective directly addresses environmental impacts on the life, health, private life, and property of individual humans rather than on other states or the environment in general.<sup>5</sup> It may serve to secure higher standards of environmental quality, based on the obligation of states to take measures to control pollution affecting health and private life.<sup>6</sup>

Today, the protection of the environment and promotion of human rights are increasingly seen by many as intertwined, complementary goals. For Christopher Weeramantry, a former Vice-President of the International Court of Justice, this is self-evident. In his separate opinion in the Case Concerning the Gabčíkovo-Nagymaros Project Judge Weeramantry wrote:

The protection of the environment is... a vital part of contemporary human rights doctrine, for it is a *sine qua non* for numerous human rights such as the right to health and the right to life itself. It is scarcely necessary to elaborate on this, as damage to the environment can impair and undermine all the human rights spoken of in the Universal Declaration and other human rights instruments.<sup>7</sup>

The relationship between human rights and environmental protection may be conceived in two main ways.<sup>8</sup> First, environmental protection may be cast as a means to the end of fulfilling human rights standards. Since degraded physical environments contribute directly to infringements of the human rights to life, health, and livelihood, acts leading to environmental degradation may constitute an immediate violation of internationally recognized human rights. The creation of a reliable and effective system of environmental protection would help ensure the well-being of future generations as well as the survival of those persons, often including indigenous or economically marginalized groups, who depend immediately upon natural resources for their livelihoods.

In the second approach, the legal protection of human rights is an effective means to achieving the ends of conservation and environmental protection. Thus the full realization of a broad spectrum of first and second generation rights would constitute a society and a political order in which claims for environmental protection are more likely to be respected. A more ambitious variant of this view provides that there is and should be an inalienable human right to a satisfactory environment, and that legal means should exist to enforce this right in a consistent and effective manner.

General Comment No 14, the United Nations Committee on Economic, Social and Cultural Rights Clearly indicates that the environment is considered a significant contributing factor to achieving an adequate standard of health, and environmental problems such as pollution are constructed as barriers to the full enjoyment of the

<sup>1</sup> Id

<sup>2</sup> Ayesha Dias, Human Rights, Environment and Development: With Special Emphasis on Corporate Accountability p 5

<sup>3</sup> Id

<sup>4</sup> Ibid n (58)

<sup>5</sup> Alan E Boyle, Human Rights and the Environment: Where next? The European Journal of International Law, 2012, 23(3)

<sup>6</sup> Id

<sup>7</sup> Gabčíkovo-Nagymaros Project (Hung. V. Slov.) 1997 I.C.J. 92 (Sep. 27) (Separate opinion of judge Weeramantry)

<sup>8</sup> Ibid n (58)



right.<sup>1</sup>

The environment can also have a direct impact on indigenous human rights. International human rights law recognizes the rights of indigenous peoples to enjoy their own culture, to profess and practice their own religion and to use their own language.<sup>2</sup> A poor environment may affect an individual's or community's capacity to realize their human rights generally, or impede a government's ability to protect the rights of its citizens. This is perhaps best demonstrated in the context of major environmental disasters such as floods, earthquakes or tsunamis, where resources which would otherwise be used for development of human rights, are necessarily diverted to address the more immediate environmental concerns.

Human rights fulfillment can also be seen as a stepping-stone towards better environmental protection. In circumstances where human rights capacity is maximized, governments are better able to address broader environmental issues, including climate change mitigation and adaptation strategies. Competing demands on a state's resources however may lead the government to prioritize more immediate human rights needs over broader, longer-term environmental protection measures. Nevertheless, where a population's human rights are generally satisfied, they are more likely to demand better environmental protection from their government, and the government is likely to be better equipped and more favourably disposed to provide it.

The links between human rights and the environment can therefore be expanded to reveal a complex network of relationship of cause and effect in which the environment both supports and is supported by strong human rights protections.

### **3. Environmental protection and Poverty Reduction**

Poverty must be reduced by meeting basic needs: health, education, shelter, productive employment, control over common property, and population management. Similarly, to minimize the environmental and social consequences of development, a strategic assessment of policies and plans must be undertaken. Projects must be assessed for their impact upon the environment and society. To successfully achieve sustainable development, the community of nations must also stop the unfavorable impacts of rural-to-urban migration in developing countries, consider renewable energy issues, and promote regional and international cooperation.<sup>3</sup>

The world commission on environment and development essentially set in process an examination of the link between environment and development and was pivotal in that it considered social issues to be central to the effective management of the environment.<sup>4</sup> One of the key achievements of the United Nations Earth Summit in 1992 was the international recognition that global poverty and environmental concerns are closely linked, and cannot be tackled in isolation.<sup>5</sup> Effective sustainable development processes should help poor people pursue sustainable livelihoods. They create opportunities for marginalized and vulnerable groups to participate in decision-making affecting their livelihoods and promote pro-poor economic growth and sound environmental management.

Reversing the losses of environmental resources has a direct impact on poverty elimination. The vast majority of poor people in developing countries, particularly those living in rural areas, rely on natural resources for their livelihoods. The state of the environment, therefore, has important implications for them. The existence of more productively and sustainably managed natural resources from which poor people can derive sustenance and income is an important element in reducing rural poverty.

Reducing environmental hazards due to unsafe water, air pollution, inadequate sanitation and waste disposal is also central to poverty reduction, particularly in urban areas. Poor people, especially women and children, are disproportionately affected by the health problems caused by these hazards. They are affected directly through ill-health, accidents, injury and premature death and indirectly through the consequent loss of income or their livelihood. The consideration of environmental issues in development processes and interventions can help address current trends of environmental degradation and prevent new adverse trends to which the poor are vulnerable. It can also mitigate against and reduce the impact of extreme and sudden natural shocks.

In developing their own environment strategy, the World Bank have come to similar conclusions.<sup>6</sup> The links they establish between poverty reduction and improved environmental outcomes relate to improvement in the health of poor people's; enhancing the livelihoods of poor people who depend on natural resources; and reducing the vulnerability of poor people to environmental risks, such as natural disasters.

Poverty-environment mainstreaming is a powerful practice to help eradicating poverty, reducing inequality and combating environmental degradation. Economic development and poverty reduction strongly depend on

<sup>1</sup>ICESCR General Comment 14, The Right to Highest Attainable Standard of Health (Article 12) General Comment No 14, UN Doc No E/C 12/2004/4, 11 August 2000

<sup>2</sup> International Covenant on Civil and Political Rights, Opened for Signature 1966 (entered into force 1976) art 23

<sup>3</sup>Peter P Rogers et al, An Introduction to Sustainable Development 2008 p 52

<sup>4</sup>Brundtland, G.et al (1987) our common future: World commission on environment and Development. Oxford University Press

<sup>5</sup> Shaping the 21<sup>st</sup> century: the contribution of development cooperation, OECD 1996

<sup>6</sup>Towards an environment strategy for the World Bank Group: a progress report and discussion draft, May 2000

improving management of the environment and natural resources, the natural capital of the poor.<sup>1</sup> The link between growth, economic policies and the environment are important for poverty reduction. Ignoring the environmental soundness of growth even if this leads to short run economic gains can hurt the poor in short term and undermine long run growth and its effectiveness in reducing poverty.

While there is no simple relationship between growth and environment, there are many examples of how bad environmental management is bad for growth. These short-run growth paths are bad for long-run growth, but also have high social and environmental costs that disproportionately affect the poor.<sup>2</sup>

Thus environmental improvement is not a luxury preoccupation that can wait until growth has alleviated income poverty, nor can it be assumed that growth itself will take care of environmental problems over the longer term as incomes rise and more resources are available for environmental protection. To improve the environmental soundness of growth, economic policies and decision making need to better reflect the “public goods” nature of many environmental goods and services by addressing the persistent policy and market failures that lead to their undervaluation and misuse.

Many of the underlying causes of poverty and environmental degradation are related to issues of governance and politics. There are significant and often deeply entrenched policies and institutional barriers-at local, national, and global levels-that work against the interests of poor and marginalized groups, and that often create incentives to cause or overlook damage to the environment.

Efforts to improve environmental management in ways that contribute to sustainable growth and poverty reduction should begin with the priorities of the poor. In many cases, policies continue to be based on uncertain assumptions and oversimplifications concerning the poor and their relationship to the environment. Pro-poor environmental management means challenging orthodoxies that blame the poor for environmental degradation, and challenging policies that protect the environment at the expense of poor people’s livelihoods.

A considerable body of evidence now exists that supports an improved understanding of poverty-environment interactions, in particular how environmental conditions affect the poor and their access to environmental assets.<sup>3</sup>

Environmental management cannot be treated separately from other development concerns, but requires integration into poverty reduction and sustainable development efforts. Improving environmental management in ways that benefit the poor requires policy and institutional changes that cut across sectors and lie mostly outside the control of environmental institutions-changes in governance, domestic economic policy, and international policies.

Poor people are quite capable of sustaining and improving their own livelihoods as long as they have adequate opportunities to make a living, a voice in decisions that affect them, and recourse to justice to defend their rights. Improved governance-including an active civil society and open, transparent, and accountable policy and decision making processes-is often the missing link in creating a more enabling policy and institutional environment to address poverty-environment issues that matter to the poor. Addressing governance issues at both national and sub-national levels is vital. Politicians, the judiciary, the civil service, and the private sector all have a role to play as the state directly controls access to many natural resources or determines the rules for resource use, controls investments for environmental infrastructure, and creates the framework for public policy debate about poverty-environment issues.

Improving environmental management to reduce poverty requires local understanding of how environmental conditions relate to poverty, and the ability to identify and set priorities on alternative policy options and evaluate their effectiveness and impact. Indicators are needed that measure how environmental conditions affect the livelihoods, health, and vulnerability of the poor, and these need to be integrated into national poverty monitoring systems and assessment.<sup>4</sup>

#### **4. Human rights to environmental procedural rights**

The world Charter for nature, which was adopted by the United Nations General Assembly, imposes certain obligations on states and on individuals with a view to enforcing the principles which it sets forth.<sup>5</sup> It specifies, in particular, that all persons, in accordance with their national legislation, shall have the opportunity to

<sup>1</sup> Isabell Kempf, Poverty and the Environment/Climate Change, p 1

<sup>2</sup>See chapter 2 in World Bank (2002c) for examples and discussion

<sup>3</sup>Ekbom and Bojo, review the literature in relation to nine hypotheses related to link between Poverty and Environment. They show that often conflicting empirical results should temper the tendency to oversimplify about these relationships. Nevertheless, they conclude that the poor tend to be major victims of environmental degradation, which opens up opportunities for win-win interventions. See also the Poverty and Environment initiative (UNDP and EC, 2000).

<sup>4</sup>Poverty-Environment indicators can take a variety of forms. Some are more generic in nature, such as death from acute respiratory infection as a measure of environmental health. Others are more site-specific, such as livelihood dependence on different kind of natural resources. Interpretation is always site specific. For example, in some cases reduced dependence on natural resources will mean a reduction in poverty as a poor move to off farm employment.

<sup>5</sup>World charter for nature adopted by United Nations General Assembly (Resolution No 37/7) on October 28, 1982

participate, individually or with others, in the formulation of decisions of direct concern to their environment and shall have access to means of redress when their environment has suffered damage or degradation.

World Commission on Environment and Development (WCED) adopted a list of proposed legal principles for environmental protection and sustainable development, the first of which reads all human beings have the fundamental rights to an environment adequate for their health and well being.

Principle 10 of the Rio Declaration on Environment and development states environmental issues are best handled with the participation of all concerned citizens, at the relevant level.<sup>1</sup> At the national level, each individual shall have appropriate access to information concerning the environment that held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided. The importance of procedural rights- the right to information, the right to participate, and the right to appropriate means of seeking redress-has therefore been recognized at world level.

Environmental matters are, subsumed under inter alia the rights to life, health, adequate living conditions, and information.<sup>2</sup> Relevant substantive rights that may be used to address environmental issues that affect human life include the right to life, the right to health, the right to adequate standard of living, and the right to privacy and family life.<sup>3</sup> The right to life is set out in article 3 of Universal Declaration of Human Rights as everyone has the right to life, liberty and security of person. The Hague Declaration on the environment notes that environmental protection is essential to the operation of the right to life. Further, as the human right to life is considered to be jus cogens, (a preemptory norm from which no derogation is permitted) an argument can be made that a healthy environment is inseparable from the right to life, and that some features of environmental protection, in circumstance where lives are threatened, may also be jus cogens.<sup>4</sup>

The human right to a private life is protected in the International Covenant on Civil and Political Rights. States that fail to regulate environmental nuisances or neglect environmental protection may infringe up on this human right to a private life. A large number of cases have been brought before the European Court of Human Rights (ECHR) concerning the right to privacy in the European Convention.<sup>5</sup> In other words, existing civil and political rights can be used to give individuals, groups and NGOs procedural environmental rights<sup>6</sup> namely; access to environmental information, participation in environmental decision making and judicial remedies in the event of environmental harm. On this view their role is one empowerment, facilitating participation in environmental decision making and compelling governments to meet minimum standards of protection for life, private life and property from environmental harm.<sup>7</sup>

A major concept which forms a part of greening existing human rights is the use of human rights as a tool to achieve adequate levels of environmental protection and promotion of procedural or participatory rights in connection with environmental concerns a concept which has to be referred to as environmental democracy. Environmental democracy assumes that governments operating with openness, accountability and civic participation will make better environmental decision. Giving the public a voice in environmental decision making is likely to improve the formulation, implementation and enforcement of environmental policies. Moreover, raising the awareness for environmental matters in the broader public can in turn also contribute to compliance with existing international environmental obligations. Applying a long term perspective, public participation contributes to the promotion of environmental justice and is beneficial to the delicate act of balancing the needs of present and future generations.<sup>8</sup>

The most prominent example of putting Principle 10 of Rio Declaration in to practice is the Aarhus convention,<sup>9</sup> which was elaborated under the auspices of the United Nations Economic Commission for Europe (UNECE), and is the first legally binding instrument linking human right with environment. The focus of Aarhus convention is strictly procedural in content, limited to public participation in environmental decision making,

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<sup>1</sup>Rio Declaration on Environment and Development Adopted by the United Nations Conference on Environment and Development on June 14, 1992

<sup>2</sup>Nicole Bjerler, Do Europeans have a right to environment? P 5, [www.esil-sedi.eu/sites/files/Bjerler\\_0](http://www.esil-sedi.eu/sites/files/Bjerler_0). Last visited November 2, 2018

<sup>3</sup>Atapattu S., The right to a healthy life or the right to die polluted?: The emergence of a human right to a healthy environment under international law, p 65, 2002

<sup>4</sup>Laura Horn, Reaffirming Human Rights in Sustainable Development, Journal of the Australasian Law Teachers Association pp 1-15, 2013

<sup>5</sup>1950 European Convention on Human Rights, Article 11(2), 21

<sup>6</sup>Bruch C., Coker W. and Van Arsdale C., Constitutional Environmental Law: giving force to fundamental principles in Africa pp 131-211, 2001

<sup>7</sup>Alan Boyle, Human rights and the Environment: A Reassessment, p 4

<sup>8</sup>Ibid n (79)

<sup>9</sup>Convention on access to information, public participation in decision making and access to justice in Environmental matters, opened for signature 25 June 1998, 2161 UNTS 447 (entered into force 30 October 2001), (Aarhus convention); for specific articles on public participation, see articles 6-8, for access to information, see articles 4-5, for access to justice to environmental matters, see article 9



access to justice and information.<sup>1</sup> First, the right to environmental information was conceived based on the human right to freedom of expression. Second, the right to public participation in the environmental decision making process was derived from the human right to participate in public affairs, which is recognized by the majority of human rights conventions. Third, the right to environmental justice and redress by individuals affected by environmental harm was founded on the rights to an effective access to justice, a fair hearing in an independent and impartial tribunal, and compensation or reparation of the damage.<sup>2</sup>

## 5. Human Rights to a Healthy Environment

Human right to a healthy environment suggested by some that such a right is emerging as customary law<sup>3</sup> or that it ought to be added to the catalogue of rights contained in multilateral human rights treaties.<sup>4</sup> The relationship between the environment and human rights is clearly significant, and on the basis, humans may be entitled to claim a certain degree of environmental well-being as fundamental.<sup>5</sup> The substantive component of the right to a healthy environment includes a human right to live in an environment which at its minimums allows for the realization of a life of dignity and well-being. This right to environment is thought to incorporate the substantive standards of recognized economic, social, and cultural rights indispensable for the realization of human dignity, such as the right to a standard of living adequate for health and well-being, the right to the highest attainable standard of mental and physical health, and the right to safe and healthy working conditions. The substantive component of the right to a healthy environment is informed by existing human rights- right to be free from pollution and environmental degradation, and the right to protection, inter alia, of air, water, soil, biological diversity, and ecosystem.<sup>6</sup> The right to a healthy environment contains both freedoms and entitlements. The notion of healthy environment is changing and widened in scope and it does not refer to the realm of environmental protection. Resource distribution, gender references and access to resources are all elements to be taken into consideration as well as participation and democratic decision making.

The substantive right to a healthy environment could refer to the right for all individuals to be protected from environmental degradation, which is one of the notions of environmental justice. The right to a healthy environment more importantly affirming that everyone should be free to live in non contaminated environment, and to equal and non-discriminating opportunity to participate to environmental decision-making.<sup>7</sup>

The right to a healthy environment as an inclusive right extends from the environment per se or the human environment to the mechanisms through which underlying determinants of the natural and human environment are affected. Thus, the right to a healthy environment includes entitlements and freedoms in deciding development. Participation is the core of the right to a healthy environment as it underpins the notion of human and resources mobilization to overcome inequalities, discrimination and exclusion. Through participation peoples can collectively define their needs and protect, exercise and enjoy their rights, but it must involve genuine ownership or control of productive resources such as land, financial capital, and technology. Thus, the right to a healthy environment spills over to encompass other rights and ultimately questions resource distribution and access, and the right to development.<sup>8</sup>

Under the right to a healthy environment, entitlements include the right to a system of environmental governance which provides equality of opportunity for people to enjoy the highest attainable standard of sustainable development. The right to a healthy environment is a right to a system of environmental governance to advance sustainable development based on the principle of precaution, common but differentiated responsibilities and equal inter and intra generational access to resources. A healthy environment is achieved when it balance the competing goals of sustainable development, reclaiming the importance of social development as substantive equality in the context of access to resources, benefits and burdens, wealth redistribution and improvement of social conditions.<sup>9</sup>

For what concerns the obligations that impose on the state, human rights impose substantive obligations on the states to establish an adequate legal and institutional framework for environmental protection.<sup>10</sup> Mirroring the

<sup>1</sup>Ibid n (84) p 36

<sup>2</sup>S. De Los Reyes, *The Extraterritorial Application of Human Rights in Cases of Transboundary Environmental Harm* (2013), p. 3, [Repositorio.educacionsuperior.gob.ec](http://Repositorio.educacionsuperior.gob.ec) > T..., Last visited November 4, 2018

<sup>3</sup>W. Paula Gormley, *The legal obligation of the international community to guarantee a pure and decent environment: The expansion of human rights norms*, p 85, 1990

<sup>4</sup>Karen Macdonald, *A right to a healthful environment-Humans and Habitats: Rethinking rights in an age of climate change*, p 213, 2008

<sup>5</sup>Bridget Lewis, *Environmental rights or a right to the environment? Exploring the nexus between Human rights and Environmental protection*, pp 36-47, 2012

<sup>6</sup>Costanzo Chiara, *The right to healthy Environment: A right based approach to environmental issue*. Pp. 82, 56

<sup>7</sup>Pedersen, O. W., *Environmental principles and Environmental justice*, *Environmental Law Review*, Pp. 26-49, 2010

<sup>8</sup>United Nations, *Realizing the right to development*, *Essays in commemoration of 25 years of the United Nations Declaration on the Right to Development*. United Nations, New York, Geneva. [UN Doc HR/PUB/12/4], P 60, 2013

<sup>9</sup>Ishay, M. R. *The history of human rights: From ancient from ancient times to globalization era*, Berkeley, Los Angeles, London: University of California Press, 2008

<sup>10</sup>Knox J, 2013, *Access rights as human rights; Third meeting of the focal points appointed by the government of the signatory countries of*

right to healthy, the obligation to fulfill (promote) the right to a healthy environment requires states to undertake actions that create, maintain and restore the health of environment. Such obligations include:

- Fostering recognition of factors favouring positive environmental results, e.g. research and provision of information;
- Ensuring that environmental procedures are culturally appropriate and that environmental institutional personnel are trained to recognize and respond to the specific needs of vulnerable or marginalized groups;
- Ensuring that the state meets its obligations in the dissemination of appropriate information relating to environmentally friendly lifestyles, harmful traditional and modern practices and the availability of services;
- Supporting people in making informed choices about their environment.

As violations of the right to a healthy environment can occur through the direct action of states or other entities insufficiently regulated by states, states should have the obligation to monitor and control non-state entities that are in charge of participatory process, for instance the environmental impact assessment.<sup>1</sup>

While there is currently no broadly applicable multilateral treaty which guarantees the right to a healthy environment, there are a number of regional treaties and soft-law instruments which do refer to the right, as well as a growing number of national constitutions.<sup>2</sup> The 1972 United Nations Stockholm Declaration on the human environment was the first international instruments to establish an explicit link between human rights and environmental protection.<sup>3</sup>

The nexus between human rights and protection of the environment is evident from the Preamble of the Stockholm Declaration:<sup>4</sup>

“Man is both creature and moulders of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race in this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects man’s environment, the natural and man-made, are essential to his well-being and to the enjoyment of basic human rights the right to life itself”.<sup>5</sup>

Principle 1 of the Stockholm Declaration further underscores the relationship by proclaiming that:

“Man has the 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 solemn responsibility to protect and improve the environment for the present and future generations”.<sup>6</sup>

The United Nations’ Draft Principles on human rights and environment further proclaim that:

“All persons have the right to a secure, healthy and ecologically sound environment. This right and other human rights, including civil, cultural, economic, political and social rights are universal, interdependent and indivisible. <sup>7</sup> All persons individually and in association with others, have a duty to protect and preserve the environment.<sup>8</sup> All states shall respect and ensure the right to a secure, healthy and ecologically sound environment. Accordingly, they shall adopt the administrative, legislative and other measures necessary to effectively implement the right in this declaration.<sup>9</sup> States and all other parties shall avoid using the environment as a means of war or inflicting significant, long-term or wide spread harm on the environment, and shall respect international law providing protection for the environment in times of armed conflict and cooperate in its further development”.<sup>10</sup>

Support for a right to a healthy environment can be found within regional human rights regimes.<sup>11</sup> The 1981

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the declaration on environment and development in Latin America and the Caribbean ed. Lima Peru.

<sup>1</sup>See Ishay, M. R., 2008

<sup>2</sup>Helena Kern, The right to a healthy environment versus mining: An examination of federal environmental law and its failure to protect people’s health, p 140. [Scu.edu.au](http://Scu.edu.au)> law-justice > download, last visited October 24, 2018

<sup>3</sup>WWF Denmark position paper on Human Rights and Environment, October, 2014, pp 2-3, [awsassets.wwfdk.panda.org/downloads](http://awsassets.wwfdk.panda.org/downloads), last visited October 25, 2018

<sup>4</sup>Written opinion by the world commission on environmental law of the international union for the conservation of nature on the request by the Republic of Colombia for an advisory opinion from Inter-American Court on human rights concerning the interpretation of Article 1(1), 4(1) and 5(1) of the American convention on human rights, January 2017, p 19, <https://www.iucn.org> >documents> 2007, last visited October 25, 2018

<sup>5</sup>Stockholm Declaration Preamble

<sup>6</sup>Declarations of the United Nations Conference on the Human Environment, adopted at Stockholm, June 16, 1972, U.N. Doc. A/CONF.48/14/Rev.1, Principle 1

<sup>7</sup>Draft Declaration of Principles on Human Rights and the Environment. UN Doc E/CN.4/sub.2/1994/9, Annex 1 (1994)

<sup>8</sup>Declarations of the United Nations Conference on the Human Environment, adopted at Stockholm, June 16, 1972, U.N. Doc. A/CONF.48/14/Rev.1, Principle 21

<sup>9</sup>Id, Principle 22

<sup>10</sup>Ibid, Principle 23

<sup>11</sup>Bridget Lewis, Environmental rights or a right to the environment? Exploring the nexus between Human rights and Environmental protection, pp 42, 2012

African Charter on Human and Peoples' Rights promote and protect human and peoples' rights including the promotion and protection of the right to a satisfactory environment. The African charter relevantly provides, under Article 24:

"All peoples shall have the right to a general satisfactory environment favourable to their development".<sup>1</sup>

The additional protocol on the American convention on human rights in the area of economic, social and cultural rights, (the protocol of San Salvador) 1988, determined that everyone is entitled to live in a healthy environment,<sup>2</sup> and therefore States have the legal duty to protect, preserve and improve the environment.<sup>3</sup> Article 11 of the protocol states that:

"Everyone shall have the right to live in a healthy environment and to have access to basic public services. The States parties shall promote the protection, preservation, and improvement of the environment".<sup>4</sup>

Globally, by 2005, approximately 60 per cent of all States had constitutional provisions protecting the environment. Out of 109 constitutions which did recognize some protection for the environment, 56 recognized explicitly the right to a clean and healthy environment, 97 made it the duty of the governments to prevent harm to the environment and 56 recognized the responsibility of citizens and residents to protect the environment.<sup>5</sup> It has been argued that this trend represents consistent State practice sufficient to evidence an emerging customary norm.<sup>6</sup>

A careful examination of the above national constitutional provisions shows some similarities and differences among them. While some of these national constitutional provisions guarantee a right to a clean and healthy environment, others imposed a duty on the State to protect the environmental, or mention the protection of the environment or natural resources; some others impose a duty on both the citizens and state to prevent harm to the environment, others impose a duty on citizens to protect the environment without expressly giving the citizens or any one the right to a healthy and balanced environment.

## 6. Human Rights and Environment Integration under Sustainable Development

Social objective must be treated in an integrated manner and that the integration of economic, environmental and social justice issue should be done with a view to the concept of sustainable development.<sup>7</sup> Sustainable development has become a key obligation and aspiration in various national and international legal instruments. It is the international community's agreed up on goal for improving human well being and environmental management. Sustainable development is often invoked as a means of reconciling important objectives that might sometimes appear to compete. These include respect for human rights, promotion of socially and environmentally sustainable economic growth, and protection and wise use of the natural environment.<sup>8</sup> Paragraph 5 of the 1995 Copenhagen Declaration on Social Development expresses these interconnections. It states:

"We are deeply convinced that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development, which is the framework for our efforts to achieve higher quality of life for all people".

Principle of sustainable development has encapsulated aspects of human rights, making the link between environmental protections on the one hand and the meeting of basic human needs on the other. Despite the fact that Principle 1 of the 1992 Rio Declaration on Environment and Development places human beings... at the center of concerns for sustainable development' and that they are entitled to healthy and productive life in harmony with nature, there is no explicit proclamation of a right to sustainable development as such in the declaration nor is there a right to its mirror image, a right to decent environment. While principle 3 endorses the right to development, this amorphous concept embraces not just the promotion of economic development by states but the social and cultural aspects of human development found in the 1966 UN Covenant on Economic, Social and Cultural rights. Similarly, the 1986 UN Declaration on the right to development places on States a duty to formulate appropriate national development policies that aim at the constant improvement of the well

<sup>1</sup> Which provides that "All peoples shall have the right to a general satisfactory environment favourable to their development" African (Banjul) Charter on Human and Peoples' rights adopted on June 27, 1981, OAU Doc. CAB/LEG/67/3 rev 5, 21 LL.M. 58 (1982), entered into force Oct. 21, 1986.

<sup>2</sup>Organization of American States, Additional Protocol to the American Convention of Human Rights in the area of Economic, Social and Cultural rights " Protocol of San Salvador" 1999 A-52, Article 11(1)

<sup>3</sup>Article 11(2), Protocol of San Salvador to the American Convention on Human Rights (ACHR)

<sup>4</sup>Id, Article 11(1)

<sup>5</sup>Human Rights and the Environment, Earth justice Environmental Rights Report 2008, p 2, Earthjustice.org > files> library> reports, Last Visited October 26, 2018

<sup>6</sup>Id

<sup>7</sup>Report of the United Nations High Commissioner for Human rights, Analytical study on the relationship between Human Rights and Environments, 16 December, 2011, pp 4-5

<sup>8</sup>One species, One planet: Environmental justice and Sustainable Development, Final edn, Center for International Environmental Law(CIEL) Washington, DC, USA October 2002, p. 2; Copenhagen Declaration, World Summit on Social Development, 1995, Copenhagen, Denmark, U.N. Doc A/CONF. 166/7/Annex (1995)

being of the entire population.<sup>1</sup> The Millennium Development Goal adopted by the UN General Assembly reiterates and expand these commitments. Goal 7 is focused on ensuring environmental sustainability, and sets out four targets:

- Integrate the principle of sustainable development into country policies and programmes and reverse the loss of environmental resources.
- Halve, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation.
- Achieve by 2020, a significant improvement in the lives of at least 100 million slum dwellers.<sup>2</sup>

Acknowledging that the environment is also part of this equation, the 1992 Rio Declaration (principle 3) and the 1993 Vienna Declaration on Human Rights (paragraph 11) both emphasize that the right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations.<sup>3</sup> The Rio Declaration also affirms both as sovereign right of States to exploit their own resources pursuant to their own environmental and developmental policies and their responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction (Principle 2). Principle 2 is neither an absolute prohibition on trans-boundary environmental damage, nor does it confer on state absolute freedom to exploit natural resource. Principle 4 spells out the obvious point that sustainable development requires integration of economic development and environmental protection.<sup>4</sup>

These principles are also recognized and reinforced in the IUCN Draft International Covenant on Environment and Development, which provides in its preamble that respect for human rights and fundamental freedoms, including non discriminatory access to basic service, is essential to the achievement of sustainable development and in Article 4: peace, development, environmental conservation and respect for human rights and fundamental freedoms are indivisible, interrelated and interdependent, and constitute the foundation of a sustainable world. The commentary on the draft covenant's Article 4 elaborates:

“Development and Environmental protection depend up on respect for human rights, in particular rights of information, political participation, and due process. In turn, full and effective exercise of human rights cannot achieved without development and a sound environment because some of the most fundamental rights, e.g., the right to life and health, are jeopardized when basic needs, such as sufficient food and water, cannot be provided”.<sup>5</sup>

Article 1 of the 1966 UN Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights proclaims the right of all peoples to pursue economic development, and to dispose freely of their natural wealth and resources. At the same time, regional human right treaties and declarations in Africa, Latin America, and Southeast Asia also recognize a right to some degree of environmental protection, and so does the judicial precedents of the European Court of Human Rights. The essential point of each of these examples is that, while recognizing that the right to pursue economic development is an attribute of a State's sovereignty over its own natural resources and territory, it cannot fully be exercised without regard for the potential detrimental impact on human rights or the environment of other states or areas beyond national jurisdiction.<sup>6</sup> Equally, neither environmental protection nor human rights necessarily trump the right to economic development. United Nations Human Rights Council (UNHRC) Resolution 2005/60 recognized the link between human rights, environmental protection and sustainable development. Among other things, it encourages all efforts towards the implementation of the principles of Rio Declaration on environment and development.<sup>7</sup>

In 2002, a Joint Expert Seminar was convened by the United Nations Commission on Human Rights and the United Nations Environment Programme, to assess progress in promoting and protecting human rights in relation to environmental questions since the Rio Declaration.

The expert's observed that sustainable development requires that different societal objectives, such as economic, environmental and human rights, be treated in an integrated manner.<sup>8</sup>

<sup>1</sup>Ben Boer and Alan Boyle, Human Rights and the Environment, the 13<sup>th</sup> Informal ASEM Seminar on Human Rights. Background paper, 21-23, October, 2013, Copenhagen, Denmark p 40, B. A. Andreassen and S.P. Marks, Development as a Human Right (Cambridge, mass., 2006); Declaration on the right to Development, UNGA Res. 41/128 (1986), Article 2(3).

<sup>2</sup>Ibid n (86); The Millennium Development Goals are set out in UNGA Res. 55/2 8 September 2000.

<sup>3</sup>Ibid n (63)

<sup>4</sup>Ibid n (116), p. 23; See 1996 ILC Report, Working Group on International Liability, GAOR A/51/10, Annex 1, at 264-5; R. Lefeber, Trans boundary Environmental Interference (The Hague, 1996), 23-25.

<sup>5</sup>Ibid n (116), p. 24; See Draft International Covenant on Environment and Development, Second Edition, 2010 Environmental Law and Policy Paper no 31 Rev. 3, 2010.

<sup>6</sup>Id, p. 43

<sup>7</sup>Id

<sup>8</sup>Justice, Susan Glazebrook, Human Rights and the Environment, pp 299-300; Office of the High Commissioner for Human Rights Meeting of Experts on Human Rights and the Environment (2002), Para 3.

## 7. Conclusion

United Nations bodies including the Office of the High Commissioner for Human Rights, the United Nations Environment Programme and the Human Rights Council have recognized the close relationship between the environment and human rights. It is generally accepted that human rights and the environment are mutually supportive, as environmental degradation can undermine the enjoyment of human rights, while strong human rights protections contribute to better environmental management and conservation.

The human rights-based approach to poverty reduction provides that poverty reduction no longer derives merely from the fact that the poor have needs but also from the fact that they have rights-entitlements that give rise to legal obligations on the part of others. By viewing poverty as the denial of human rights, the focus is moved away from poverty reduction as an issue exclusive to economic development towards the rights and obligations entrenched within the formal legal system. In the context of human rights, poverty is thus no longer seen as a social problem but rather as an infringement on human rights, where relationships characterized by dominance and control deprive people of the fulfillment of their basic human rights.

The protection of the environment and promotion of human rights are increasingly seen by many as intertwined, complementary goals. Environmental protection may be cast as a means to the end of fulfilling human rights standards. Degraded physical environments contribute directly to infringements of the human rights to life, health, and livelihood, acts leading to environmental degradation may constitute an immediate violation of internationally recognized human rights. The legal protection of human rights is an effective means to achieving the ends of conservation and environmental protection.

General Comment No 14, the United Nations Committee on Economic, Social and Cultural Rights Clearly indicates that the environment is considered a significant contributing factor to achieving an adequate standard of health, and environmental problems such as pollution are constructed as barriers to the full enjoyment of the right. The links between human rights and the environment can therefore be expanded to reveal a complex network of relationship of cause and effect in which the environment both supports and is supported by strong human rights protections.

A major concept which forms a part of greening existing human rights is the use of human rights as a tool to achieve adequate levels of environmental protection and promotion of procedural or participatory rights, right to information, and right of access to justice and redress in connection with environmental concerns.

The substantive component of the right to a healthy environment includes a human right to live in an environment which at its minimums allows for the realization of a life of dignity and well-being. The right to a healthy environment more importantly affirming that everyone should be free to live in non contaminated environment, and to equal and non-discriminating opportunity to participate to environmental decision-making. A healthy environment is achieved when it balance the competing goals of sustainable development, reclaiming the importance of social development as substantive equality in the context of access to resources, benefits and burdens, wealth redistribution and improvement of social conditions.

One of the key achievements of the United Nations Earth Summit in 1992 was the international recognition that global poverty and environmental concerns are closely linked, and cannot be tackled in isolation. The existence of more productively and sustainably managed natural resources from which poor people can derive sustenance and income is an important element in reducing rural poverty. The links they establish between poverty reduction and improved environmental outcomes relate to improvement in the health of poor people's; enhancing the livelihoods of poor people who depend on natural resources; and reducing the vulnerability of poor people to environmental risks, such as natural disasters. Economic development and poverty reduction strongly depend on improving management of the environment and natural resources, the natural capital of the poor. Efforts to improve environmental management in ways that contribute to sustainable growth and poverty reduction should begin with the priorities of the poor. Pro-poor environmental management means challenging orthodoxies that blame the poor for environmental degradation, and challenging policies that protect the environment at the expense of poor people's livelihoods. Environmental management cannot be treated separately from other development concerns, but requires integration into poverty reduction and sustainable development efforts.

Economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development. Peace, development, environmental conservation and respect for human rights and fundamental freedoms are indivisible, interrelated and interdependent, and constitute the foundation of a sustainable world (Article 4 IUCN Draft International Covenant on Economic and Development). United Nations Human Rights Council (UNHRC) Resolution 2005/60 recognized the link between human rights, environmental protection and sustainable development.

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