**RELATIONSHIP OF INTERDEPENDENCE OF HUMAN RIGHTS AND THE PROTECTION OF ENVIRONMENT**

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ABSTRACT

*The survival of a human being depends upon numerous factors. The primary factors are food, water and shelter, which are a part and parcel of the environment. This implies that the existence and survival of a human being depends upon the survival of environment. The author has primarily through this paper aimed to lay out what are human rights and how can they aid in the protection of environment. Secondly, the author has made an attempt to shed the light on the interdependence of both the subject matters. Through this, it has been attempted to establish that human being and environment are dependent in such a manner that one cannot exists without the other. Human rights and rights of an environment are interlinked with each other.*

*Further, the author has also highlighted the instruments that have acted as an evidence for the interdependence of human rights and the protection of environment. Various nations have laid down a founding cornerstone to establish a linkage between the human rights and the protection of environment through conventions, declarations and treaties. The judiciary has also played a vital role in application of the human right principles in the environmental protection issues to strengthen the principles that have been laid down by various countries in different forms.*

*The paper is concluded by the author by analyzing the current scenario of the human rights and the environment protection with some of the suggestions to enhance the application of such interdependence to make it more explicit.*

**Keywords:** Human rights, Environment Protection, Interdependence, Conventions, Judiciary.

INTRODUCTION

Every individual is entitled to some basic rights for his survival in this universe. Some of these rights are inherent whereas others are conditional. Human rights are one of those rights that are inherent in nature and thus are enforceable since the birth of an individual. The concept of human rights is not confined to a set of provisions that govern the living standards of the entire human species. These rights include every set of possible pre-requisites that are necessary for human existence and survival.

The protection of environment is though not explicitly linked with the human rights since eternity. The development of different legislations worldwide over the period of time has created a nexus between the rights of a human being with that of protection of environment. This nexus has benefitted to the existence of a human as well as to the environment. A human being cannot survive in an environment that is not clean and safe to survive, neither can an environment survive without the survival of human being.

CHAPTERIZATION

The first chapter of the paper introduces the human rights and the rights of an environment. In this chapter the definition and a background of the development of human rights and the environmental rights have been provided. The second chapter establishes the link between the human rights and the environmental rights and establishing the importance of both the rights in the survival of human being as well as the environment. The final chapter describes the instruments that have played an important role in establishing the link between the human rights and the protection of environment. The chapters are discussed in detail below:

CHAPTER-I: HUMAN RIGHTS AND ENVIRONMENTAL RIGHTS

Human rights are considered to be those rights that are inherited by an individual since his birth and are not in anyways provided by any State or legislations through any special recommendations or provisions. These rights are universal in nature and do not depend on any nationality, sex, religion, caste, language or race. These human rights are fundamentally protected and universally acceptable by Universal Declaration of Human Rights which was adopted by the General Assembly of the United Nations in 1948[[2]](#footnote-2). The key characteristics of human rights are that they are inalienable, universal, interdependent, equal and non-discriminatory in nature[[3]](#footnote-3). Though this document provides for an equal treatment to every human life in existence, it also provides for some special provisions for the less privileged class of people i.e. women, children, people with disabilities, minorities and vulnerable groups[[4]](#footnote-4).

On the other hand, environmental rights can be understood as those human rights which have the influence and indulgence of environment in it[[5]](#footnote-5). There are numerous human rights that exist in the form of environmental rights of an individual or society at large. Basically these rights can be divided in two broad categories, i.e. substantive rights and procedural rights. Those human rights that create a direct impact upon the enjoyment of the environment are substantive rights whereas those rights that create responsibility upon the state as well as individuals to take appropriate actions in order to enforce the existing legal rights are termed as procedural rights[[6]](#footnote-6). The right to life, the right to adequate standard of life and the right to health are the examples of substantive rights on the other hand access to information, participation in decision making etc. are some of the procedural human rights.

The environmental law focuses more on the procedural rights aspects due to which creates a limitation on the mechanisms of complaint and other recourse action under the international environmental law. On the other hand, the human rights ensure that while fulfilling the procedural aspects of rights of an individual, his substantive rights are not negated at any cost.

CHAPTER-II: INTERDEPENDENCE OF HUMAN RIGHTS AND ENVIRONMENTAL PROTECTION

Neither human rights law nor protection of environment legislations can be enjoyed in solitude. Human rights cannot be enjoyed without the environment being clean and safe and the environment governance cannot be executed without providing human being with its basic rights[[7]](#footnote-7). These legislations are interdependent and interlinked with each other in such a manner that one cannot be separated from the other. This relationship between human rights and the protection of environment was recognized by the UN General Assembly for the first time in late 1960s[[8]](#footnote-8). It is now also widely recognized by the various countries in their constitutions[[9]](#footnote-9). Further, even Stockholm Conference in 1972 made numerous efforts to understand this interrelationship between the protection of environment and the human rights[[10]](#footnote-10).

The interrelation of both the arenas of law can be established from the fact that clean and healthy environment is a precondition for the existence of a human being[[11]](#footnote-11). Some of the basic human rights are also important with a view of protecting the environment.

Further, there are four basic principal and complementary approaches that perfectly define the relationship of interdependency between human rights and the environment[[12]](#footnote-12). They are as follows:

* Environmental laws incorporate those human rights within its provisions that can be considered as effective in the protection of environment.
* When the environmental degradation is prevented by full enjoyment of the guaranteed rights then the human rights interprets an environmental dimension to the internationally recognized human rights.
* A new substantive right to safe and healthy environment has been elaborated by the international human rights law and international environmental law.
* Legal and ethical duties of an individual are articulated in international environmental law that directs towards the existence of both protection of environment and human rights simultaneously.

These four principles have established the interdependency of human rights and protection of environment which concludes that the protection of one is necessary in order to protect the other.

CHAPTER-III: INSTRUMENTS LINKING HUMAN RIGHTS AND ENVIRONMENTAL PROTECTION

The foundation that links the human rights and the protection of environment has been established by the Principle 1 of ‘Stockholm Declaration on Human Environment’[[13]](#footnote-13). This principle declares ‘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 the solemn responsibility to protect and improve the environment for present and future generations’[[14]](#footnote-14). This conference at Stockholm resulted in setting up of United Nations Environment Programme (UNEP).

A United Nations Conference on Environment and Development that took place on 13-14th June, 1992, in Rio de Janeiro followed the Stockholm Conference. This Conference is also known as the Earth Summit[[15]](#footnote-15). The Rio de Janeiro Declaration[[16]](#footnote-16) did not just acknowledge the interdependence between the human rights and the protection of environment but has also provided two major human rights with respect to the protection of environment[[17]](#footnote-17). These rights are, the right of access to environmental information and of public participation in the decision making of environmental issues.

These Conventions brought a wave of change in the world and were followed by many such conventions that supported these conventions and established a stronger link between the human rights and the protection of environment. One such convention was the European Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters signed on 25th June, 1998[[18]](#footnote-18). This treaty is considered as the first environmental treaty that has not just incorporated Principle 1 of Stockholm Declaration but has also strengthened it.

The judiciary has at various instances applied the provisions of human rights treaties, declarations and legislations in the environmental cases and has established a firm relationship of interdependence between both the arenas of law. The court in the case of *Leander v. Sweden[[19]](#footnote-19)*, applied Art.10 of the European Convention on Human rights wherein the freedom to receive information of the applicant was restricted. The same provision of the treaty was applied in the case concerning environmental matters[[20]](#footnote-20). It has also been applied by the judiciary in the cases where the vital environmental information was disseminated and was considered as defamation[[21]](#footnote-21).

Even in India, the judiciary has through its judicial pronouncements established the linkage between human rights and the protection of environment. In the case of *MC Mehta v. Union of India*[[22]](#footnote-22), the Hon’ble apex court as enforced right to satisfactory environment as a fundamental right provided under the Constitution of India. This right protects the basic human right of an individual as well as plays a vital role in the protection of environment.

CONCLUSION

The growth of the world increases rapidly when an individual has been possessed with a healthy environment to live. The human rights have been provided to these individuals to promote the better health in order to reach their goals and work towards the development of the country/world. These goals cannot be achieved without the existence of a safer and cleaner environment. It is the responsibility of the state to ensure that its subjects have been provided with all the basic pre-requisites for them to work with their full efficiency. It is the duty of the state to not just provide these basic rights but also to provide a better and healthier environment. Therefore, both areas of law are to be equally paid attention in order to protect either the human or the environment.

Further, certain suggestions can be taken into account in order to enhance the efficiency of maintaining a balance between both the protection of rights of a human as well as environment. They are as follows:

* NGOs that work towards the welfare of human rights and that of environment should be brought together and briefed about the relevance of both the arenas for their better functioning towards the betterment of the society.
* Establish the inter-disciplinary links in order to make the understanding of the common individuals of the society more transparent towards the subject.
* Prepare reports of the instances that depict the effect of human rights and environment on each other.
* Take extensive measures to curb the problem that has been concluded though the reports.
* The United Nations should be suggested to prepare a declaration especially dedicated towards the emerging relevance of the Human Rights and the Environment Protection.

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2. *What is the Universal Declaration of Human Rights?,* Australian Human Rights Commission <https://humanrights.gov.au/our-work/what-universal-declaration-human-rights#:~:text=The%20Universal%20Declaration%20was%20adopted,statement%20of%20inalienable%20human%20rights.> [↑](#footnote-ref-2)
3. *What are human rights?* Office of the High Commissioner: United Nations Human Rights <https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx>. [↑](#footnote-ref-3)
4. *Human Rights,* United Nations, <https://www.un.org/en/global-issues/human-rights>. [↑](#footnote-ref-4)
5. *Environmental rights,* Humanium, <https://www.humanium.org/en/focus-on/environment/environmental-rights/>. [↑](#footnote-ref-5)
6. *What are Environmental Rights?* UN Environment Programme, <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/what>. [↑](#footnote-ref-6)
7. *Human Rights and the Environment,* Geneva Environment Network, <https://www.genevaenvironmentnetwork.org/resources/updates/human-rights-and-the-environment/>. [↑](#footnote-ref-7)
8. *Brief Introduction to Human Rights and the Environment,* Aequitas, <https://www.aequitas-humanrights.org/human-rights-education/the-environment/brief-introduction-to-human-rights-and-the-environment/>. [↑](#footnote-ref-8)
9. *About human rights and the environment,* Office of the High Commissioner: United Nations, <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/AboutHRandEnvironment.aspx>. [↑](#footnote-ref-9)
10. *Human Rights and the Environment,* Icelandic Human Rights Centre, <https://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>. [↑](#footnote-ref-10)
11. *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe*, *clean, healthy and sustainable environment,* 24th Jan.2018, <https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/A\_HRC\_37\_59\_EN.pdf>. [↑](#footnote-ref-11)
12. Shelton Dinah, *Human Rights and the Environment: What Specific Environmental Issues have been recognized* (Vol. 35:1, pg 130, Denver Journal of International Law and Policy, 2006). [↑](#footnote-ref-12)
13. Supra note 10. [↑](#footnote-ref-13)
14. Principle 1, Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration, 1972). [↑](#footnote-ref-14)
15. ## *United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, 3-14 June 1992*, United Nations, <https://www.un.org/en/conferences/environment/rio1992>

    [↑](#footnote-ref-15)
16. *REPORT OF THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT*, A/CONF.151/26 (Vol. I), 12 August 1992, United Nations. [↑](#footnote-ref-16)
17. Supra note 8. [↑](#footnote-ref-17)
18. *Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters*, 25th June, European Convention 1998, 2161 U.N.T.S. 447. [↑](#footnote-ref-18)
19. App. No. 9248/81, 9 Eur. H.R. Rep. 433, para. 74 [1987]. [↑](#footnote-ref-19)
20. *Guerra v. Italy,* App. No. 14967/89, 26 Eur. H.R. Rep. 357 at para 61 [1998]. [↑](#footnote-ref-20)
21. *Bladet Troms v. Norway*, App. No. 21980/93, 29 Eur. H.R. 125, at paras 61, 71-73 [1999]. [↑](#footnote-ref-21)
22. [1988] AIR 1037 SC. [↑](#footnote-ref-22)