

Q&A by Stand Up For Your Rights on A Human Right to (a healthy and clean) Environment



“A democratic and equitable international order requires, inter alia, the realisation of the right of every person and all peoples to a healthy environment.”

United Nations Human Rights Commission in Resolution 2005/57 and
United Nations General Assembly on 8 March 2010 in Resolution 4/157

What is the link between human rights and the environment?

Responding to a growing environmental consciousness, many treaties and laws on environmental protection were introduced in the second half of the 20th century. Since the 1970's links between human rights and the environment were recognised. In the next decades human rights and the environment were progressively seen to be inherently interlinked as people started to realise that a clean and healthy environment not only yields great benefits for humans, but is essential to the enjoyment and realisation of fundamental human rights (e.g. the right to life, personal integrity, family life, health, food, water and development all depend on protecting the environment).¹

Human Rights are the basic rights and freedoms to which all humans are entitled. They express the fundamental values of society and contain our basic needs. We need health, for example, and so we have a right to health. We need to be able to learn and so we have a right to education.

Is “environment” already acknowledged as a human right in international conventions?

Today several regional human rights charters, other conventions and declarations - like the Aarhus Convention and the UN Declaration on the Rights of Indigenous Peoples, and over 100 constitutions contain a pronouncement of a human right to a healthy environment. Still, this right has not yet been accepted in a binding treaty at UN level or in the European Convention on Human Rights (ECHR). The Parliamentary Assembly of the Council of Europe in 2009 - by an almost unanimous vote - recommended for the drafting of an additional protocol to the ECHR, which would lead to having the right to a healthy environment in the ECHR. The Committee of Ministers, however rejected this recommendation in mid 2010.

What would be the logical next step?

The next logical step could and should be made in due time at the global / UN level: To conceive and acknowledge the human right to (a clean and healthy) environment. As a basis for all other rights and life itself, all people have a right to an environment that is not harmful to their health or well-being and to have the environment protected, for the benefit of present and future generations.

Are there more arguments for such a rights-based approach to environmental issues?

A human right to environment elevates the entire spectrum of sustainability, conservation and environmental issues to a place amidst the most fundamental values of society, on a level equal to other human rights and superior to ordinary legislation. A level where it belongs.

¹ Case law based on international conventions such as the American Convention on Human Rights, The African Charter on Human and People's Rights, the European Social Charter and other developments and initiatives – including the Millennium Development Goals and the Earth Charter – have reaffirmed that environmental and human rights are strongly linked and that the right to a healthy environment is a fundamental part of the right to life and to personal integrity.

Any specific benefits of having a Human Right to Environment codified? Yes:

- As all rights are connected to obligations, placing environmental and conservation issues at this level will create both rights and duties, responsibilities and more awareness on these issues for individuals, states and business.
- This human right will link global, regional and local issues - with for instance environmental disruption that starts locally often taking place in an international context;
- A rights-based approach would - compared to existing approach in environmental laws - focus less on states and more on individuals and groups, who in fact get hurt or could get hurt by the disruption of the environment;
- These victims of environmental disruption will have access to international procedures that allow those harmed to bring international pressure to bear when governments lack the will to prevent or halt severe violations that threatens human health and well-being. For instance in many instances based on other human rights, petitioners have been afforded redress under the ECHR and governments have taken measures to remedy the violation;
- In the absence of guaranteed rights on these issues, other constitutionally protected rights, like property rights, currently may be given automatic priority instead of being balanced against sustainable development, health and environmental concerns; and
- Human rights claims are absolute, meaning they should be immune to lobbying and pressure.

Why do we take initiatives to have this human right acknowledged, codified and respected under international law / conventions?

- To ensure that people live their life in a clean, healthy and balanced environment;
- To have nature (species and eco-systems) preserved for current and future generations;
- To create awareness that humans are not rulers over or separated from, but part of nature;
- To ensure that environmental protection and the conservation of nature are acknowledged and respected amongst the most fundamental values of society; amongst human rights;
- This human right can really make a difference for individuals (as people who suffer from violations can turn to a court to stop these violations or be compensated);

Who can bring a case to a Court based on a violations of human rights?

In short: Many international human rights conventions make a distinction between individual applications lodged by any person, group of individuals, company or NGO having a complaint about a violation of their rights, and inter-state applications brought by one state against another.

What could the text of such a human right look like? A text proposal (based on art. 24 of Constitution of South Africa) could be:

Everyone has the right to a healthy environment. Thereby everyone has the right to:

- a) an environment that is not harmful to its health or well-being; and
- b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

Any statements on this by International NGOs? Yes, many, here are two examples:

Greenpeace International website: "I accepted the role of International Executive Director at Greenpeace, because I believe that ensuring a green and peaceful planet is also a basic human right."

<http://tinyurl.com/yitytcu>

Amnesty International website: "A healthy environment is a human right. Demand Dignity."

<http://tinyurl.com/ygfjq48>