

## Protection of Human Rights and the Environment: Links and Approaches

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**Abstract:** Environmental degradations have adverse consequences, both short-term and long-term on the efficacious enjoyment of environmental human rights. Though these consequences are the results of the errant use and abuse of the environment resources by the affluent people and rich states around the globe, and their engagement with such activities that are not environmentally friendly, the most susceptible and sufferers are less privileged and indigent population of the developing and least developed countries. The best example of it is the phenomenon of global warming and its impact on countries across the world. Global warming, which is causing adverse weather conditions as a result of excessive emission of greenhouse gases mostly by developed countries, has resulted in unusual weather conditions in developing and least developed countries. This has led to a sizable number of internally displaced people who are left in vulnerable conditions in such countries since they are practically less resourceful. In view of this, international cooperation for conservation of the environment, resuscitation of its damage based on transfer of technology, transfer of financial resources and capacity building of developing and least developed countries become a *sine qua non* for ensuring environmental human rights and other related rights to every individual of the world. The notion that environmental degradation affects the enjoyment of environmental rights and fundamental human rights has gone beyond a mere jurisprudential debate of a state and has become a matter of global concern. It has been acknowledged over the years that protection of human rights and environmental protection are so inextricably related that they are co-extensive and co-existent. Thus, attempt to protect the environment will also, in turn, assist in the protection of certain fundamental human rights. This proposition has been a subject matter of widespread debate. This paper, therefore, sheds some light on various issues that prove that the two subject matters, i.e. certain fundamental human rights and conservation of the environment, are interrelated. This underscores the need for both to be taken into consideration and incorporated into all development projects and activities, which might cause adverse impact on the environment and/or human, animal and plant life or health. Towards achieving this, there is a need for preventive measures, e.g. comprehensive environmental impact assessments (EIAs) and social impact assessments (SIAs) with enough and meaningful public participation, environmental audit from time to time, and punitive measures, e.g. imposing penalty and fine, imprisonment, compensation having enough deterrence on the perpetrators and others, a competent legal regime and enforcement mechanisms, administrative and judicial. Due to limited space the paper will not discuss these imperatives in detail.

**Key words:** Environment, human rights, development.

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### INTRODUCTION

A polluted environment cannot promote the realisation of certain fundamental human rights stipulated in international human rights instruments and guaranteed by all constitutions of sovereign state. The basic rights such as the right to life are endangered by degraded environment, exposure to harmful wastes, and drinking polluted drinking water. A healthful environment obviously contributes to measure the degree to which certain environment-related rights of the people are protected. It is now timely to acknowledge that those who are jeopardizing the quality of the environment are not only committing an offence against the nature but are also infringing certain human rights. On the other hand, it is stated that regulatory methods other than right-based approach exist as well to protect the environment and public health. This, for instance, includes economic incentives and disincentives, appreciation and rewards, environmental education and orientation at various levels by various agencies, and creation of reserves in form of forests and marine parks in order to prevent all kinds of economic activities in them. They also constitute different types of regulatory frameworks both at

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national and international level. They generally stress on collective duties and responsibilities towards conservation of the environment, which will ensure a healthy environment for all, the environment and people, instead of rights echoed in the Stockholm Declaration. These duties are also in line with human rights, especially right to life, as both are correlative, documents that place duties on both the states and individuals to ensure the realisation of certain internationally acclaimed human rights. As environmental consciousness develops, there is the greater acknowledgement that the continued existence of mankind and the protection of human rights are subject to a healthy and sustainable environment. Consequently, the demand to guard and encourage a healthy environment is crucial not only for the purpose of securing human rights, but also for the purpose of safeguarding the common heritage of mankind, both at national as well as international levels so that the present and future generations could benefit from it. Thus, this paper examines the various ways by which the protection of human rights and the environment are interrelated; thus, any attempt to protect one would warrant the protection of the other. It starts by looking into the dire need to protect certain fundamental human rights and the environment. This portrays the importance of both concepts in the international community and domestic territorial jurisdictions. It then examines overlapping areas between certain human rights and the conservation of environment, which greatly demonstrate the need to incorporate the two subjects in all development projects and procurement and use of environmental resources.

### ***Protection of Human Rights:***

Human rights are essential to the steadiness and progress of countries. Enormous importance continues to be supplied to international instruments on human rights and their realisation so as to guarantee agreement to their universal recognition and acceptability (Augender, 2002). Ever since the advent of industrialization after the Second World War, emphasis has been placed on use of environmentally responsible technologies to enable these rights to get more momentous not only in shielding mankind from the adverse effects of changes brought about by industrialisation but also in ensuring that their enjoyments are enviously guided from any activities likely to encumber the realisation of basic rights (Sambo and Abdulkadir, 2012). It is for this reason that the concepts of sustainable development, environmentally sound technologies (ESTs) and green economy have been developed and are being internalized by all nations to their best. In the whole scenario, the role of developed countries with respect to transfer of technology, especially ESTs, transfer of financial resources and capacity building of developing and least developed countries becomes central. All the same, at national level, lack of appropriate legal regime and the efficacy of the enforcement machineries have been questioned both nationally and internationally. Many of the developing and least developed countries have world-class laws, but due to lack of enough trained enforcement officials and coordination among various relevant departments, their enforcement is poor. These squarely result in erosion of environmental rights and some other related rights (Annas, 2005). These human rights can only be improved when all states have enough political will and work individually and collectively for conservation of the environment and its resources.

It is needless to say that the imperative of protection and promotion of human rights has become a matter of global concern. One of the remarkable events in international law since the end of the Second World War has been the fast growing global concern to protect human rights, which was resoundingly emphasized in the Stockholm Declaration of 1992 and the Rio Declaration of 1992 (Trinidad, 2008). This is evident in the preamble to the Universal Declaration of Human Rights 1948, which can be summarised as: 'recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, peace and justice.' These declarations have also led to the emergence of regional concerns for the protection of environmental human rights and other related human rights and the subsequent adoption of regional human rights instruments.

Two years after embracing the Universal Declaration of Human Rights, the European Convention on Human Rights was adopted by the Council of Europe 1950. In 1961, the Organization of American States also adopted the American Convention on Human Rights, while the African Charter on Human and the Members of Organization of African Unity adopted Peoples' Rights in 1981. These instruments demonstrate that the concern for human rights protection and promotion vis-à-vis conservation of the environment has long before now become a primary objective of the international community (Volodin, 2007). It is appropriate here to know as to what constitutes human rights, more appropriately in the context of protection of the environment.

Human rights have been defined as "a universal moral right, something which all men, everywhere, at all times ought to have, something of which no one may be deprived without a grave affront to justice, something which is owing to every human simply because he is human" (Augender, 2002). It is customary in human rights dialogue to classify rights into various categories. The most prominent among them are civil and political rights; and economic, social and cultural rights. Civil and political rights are generally traced back to the Bills of Rights that were affirmed pursuant to the American and French Revolutions (Sohn, 1982). These rights are contained in the International Convention on Civil and Political Rights 1966. They commonly refer to the individual fundamental rights. They include: the right to life, the right not to be tortured or enslaved and the freedom of thought, expression and association.

Economic, social and cultural rights, on the other hand, are commonly assumed to have stemmed out from the Russian Revolution of 1917 (Alston, 1982). It is argued that civil and political rights are valueless in the face of deleterious social conditions such as starvation, scarcity, insufficient health facility, absence of learning opportunity and hazardous workplaces. It is, for this reason, said that economic, social and cultural rights and civil and political rights mutually complement one another.

An erroneous stance of the dichotomy between civil and political rights, and economic social and cultural rights has always been that the former prohibits the intervention of state while the latter permit the intervention of the state. Practically, all rights be it civil and political or economic, social and cultural demand a certain level of interference by states in order to ensure their obedience and acceptability and as case laws demonstrated, both rights can be asserted in the protection of the environment (Shelton and Kiss, 2005).

Most of the rights stipulated are related to keeping the environment clean and conserve it in its naturally balanced form. Right to life and health, right to get subsistence, right to collect materials for making handicraft and traditional medicine, right to grazing, right to hunt animals, right to ingress and egress in frosts and oceans are environmental rights and are directly related to the above rights. Some other rights, e.g. right to information, right to participate in decision-making and right of access to justice are remotely related to the above rights. It is for this reason that comprehensive environmental impact assessments, social impact assessments, environmental audits and inter-generational equity, application of precautionary principle, and striking a balance between environment and development (sustainable development) are third generation rights, but they are most appropriate for ensuring a healthful environment to all. (Ansari, 1998, 2009).

### ***Conservation of the Environment and Protection of Human Rights***

The term 'environment' was regarded to be a phrase, which has no definite meaning, as it is a relative concept. It has proven difficult to depict the scope of the term environment and this explains the reason why many of the early treaties, declarations, code of conduct and guidelines did not endeavour to define the phrase. The definitions provided by dictionaries span from something environs, to the whole complex of climatic and biotic factors that act upon an organism or ecological community or precisely, surroundings or surrounding objects (Webster New Dictionary).

The Declaration of the United Nations Stockholm Conference on the Human Environment does not include a definition of the word environment. However, principle 2 simply mentions the natural resources of the earth as including "air, water, land, flora and fauna and natural ecosystems" (Stockholm Declaration 1972). Those treaties and conventions which have sought to come close to provide some form of operational definition of environment tend to narrow their definitions to fit their particular objectives. For example, the Convention on the Regulation of Antarctic Mineral Resources Activities (1988) defines damages to the Antarctic environment as a blow on the living or non-living constituents or elements of that environment. The Long-Range Transboundary Air Pollution Convention (1979) depicts environment to include agriculture, forestry, materials, aquatic and other natural ecosystems and visibility. The Convention on Civil Liability for Environmental Damage 1993 (hereinafter CLC), which prescribes payment of compensation in cases of marine pollution damage by ships alongside with the International Convention for Establishment of an International Fund for Compensation for Oil Pollution Damage, as amended in 1992 (hereinafter FUND Convention), mention in the definition of 'natural resources' to include not only the natural environment but the man-made environment inclusive of man-made landscape, buildings and objects.

Various national environmental laws also attempt to provide some working definitions of the term environment. For example, Indian Environmental Protection Act 1986 refers to environment to include water, air, land and interrelationship, which exist among and between water, air, and land and human beings, other living creatures, planets, microorganism and property (section 2). In Bulgaria, the Environmental Protection Act 1991 defines environment as a complex of natural and anthropogenic factors and elements that affect the quality of life, human health, the cultural and historical heritage and the landscape (section 1). In Slovenia, the Environmental Protection Act 1993 defined environment to mean that part of nature, which is or could be influenced by human activity. Bell and McGillivray (2006) treated environment, as that covering the physical surrounding that are common to all of us, including air, space, water, land, planets and wildlife.

It is very obvious that nearly all conventions and treaties avoid the problem of defining the concept of environment and those that attempted to offer a guide only limited their scope to a particular purpose. Also, various jurisdictions have employed different forms of adjectives or metaphorical expression to define the phrase environment. This explains the reason why it is better at times to describe an object than defining it. It is little wonder that Caldwell (1980) opined that "it is a term that everyone understands and no one is able to define."

Though the term environment is a subject of many phrases, nevertheless, one common idea that runs across jurisdictions is that there exists affinity between man and his environment, and just as Stockholm Declaration accurately puts it, "man is both the creature and moulder of his environment." This would imply that man's physical sustenance is reliant on how he creates and shapes his environment. Hence, the extreme need for man

to put his environment into consideration in his daily activity in the interest of current generation and future generations accounts for the emergence of what can be regarded as environmental law.

The initial definition of the phrase environment was human-centric, as it was restricted only to human beings and their beneficiaries. This gave very limited perception of the environment. This narrow approach gave way to a broader approach of natural-centric definition. As given in the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques 1971 (hereinafter ENMOD), environment is defined to include 'lithosphere, hydrosphere, biosphere, atmosphere and outerspace'. This is the most appropriate definition, as it presents the all-encompassing definition, which is broadly agreed.

Environmental law can be divided into two categories namely, international law and national law. The relationship between the two is precisely based on the objectives for which each was created and the scope that each of the two types of law covers. International environmental law is a law developed between sovereign states to create rules and standards at the international level generally with regard to regulating international environmental matters. They also relate to national practices by providing soft laws. The best example of such laws are: the Agenda 21, the Forest Principles, the Declarations at the conclusion of the Rio Conference and the Rio+20 Conference. National environmental law on the other hand covers environmental matters within a state and regulates human attitude towards the environment. They may be purely national or by giving effect to the treaty norms of any treaty to which the country is a member. For example, the treaty norms of the CLC and the Fund Convention are enforced through appropriate local legislations. As most of the protocols only supplement the conventions under which they have been made, they may or may not be accepted by the Member States. Thus, amendments to local legislations depend on acceptance of the protocols; so is the case under the CLC and Fund Conventions. The role of law generally in any society is to regulate by all means, whether preventive and punitive, the human behaviours that might leave deleterious impacts on the environment. Laws can change perceptions and behaviours towards particular aspects of life. Thus, Law acts as the key instruments of social regulation established through norms of conduct, and formation of the necessary machinery with their complementary empowerment for ensuring compliance.

At international level, environmental law came of age approximately in 1972 when countries assembled at the United Nations upon conclusion of the Conference on the Human Environment and the subsequent adoption of the Stockholm Declaration 1971. The principles in that Declaration have provided the foundation for modern international environmental law. Numerous legal developments took place during the negotiations among the states that attended the Conference. During this period, Convention on International Trade in Endangered Species 1973 (CITES), the London Dumping Convention (1972; replaced by the 1996 Protocol known as London Convention), the World Heritage Convention 1972 and many more were all negotiated and concluded. Since 1970, hundreds of international environmental instruments have been concluded between states to regulate their relationship with the environment. Almost all environmental conventions, global and regional, in effect, protect the environment, which in turn ensure peoples' environmental rights and other related rights. The most important among them are: the Basel Convention 1989, which aims to protect the human health and the environment against the adverse effects of hazardous wastes; the Montreal Protocol 1987, which has made successful attempt in protecting humankind from the ultraviolet (UV) rays coming to the Earth by restoring the Ozone Layer; the CITES 1973, which successfully protects the endangered species which can be beneficial to the environment and the humankind by maintaining balance in the biodiversity; the Kyoto Protocol 1997, which provided mechanism to reduce the menace of global warming; and the Biosafety Protocol 2000 and the Nagoya Protocol 2010, made under the Biological Diversity Convention 1992 (CBD), attempt to protect human, animal and plant life and health from genetically modified living and non-living organisms by introducing a mandatory precautionary Principle, and access to natural resources and profit sharing.

Notwithstanding the vast growth in international and regional laws concerning environmental management, national laws cannot be surpassed. In a global system of more than 170 states, for obvious reasons, only domestic legislations supplemented with other extralegal means might have the utmost impact on, and control over, the attitude of individuals in favour of conserving the environment and protection of environmental human rights and other related human rights. The reasons behind the success of national law include the following: First, national governments remain in a highly favoured position to pass successful environmental legislation because they exercise a high degree of control over its subjects, humans and others (Wilkinson, 2002). Second, national law remains the medium through which states frequently execute their international obligations and regulate the behaviour of their citizens and companies both within and across borders (Auer, 2001). Third, national law may give individuals a means of securing protection from transboundary harm without resorting to the intervention of their own government and in some cases, allow them to compel the government to abide by their international obligations.

To sum up, the pressing need to protect and preserve our environment against degradation in the interest of present generation without unduly compromising with the interests of generations to come requires an efficient environmental legal regime both at national and international levels. The two systems should not be treated discrete, as they tend to pursue and achieve the same goal, which is the protection of the environment, and

which ultimately protect environmental human rights and related other human rights as stated above. However, international environmental law will be more effective at national level, especially in developing and least developed countries, if given the necessary fillip and support by developed countries. The modern environmental law now rests on the idea that environmental protection can only be achieved if incorporated into the economic development of a nation to make it really sustainable and green.

***Linkage between the Protection of Human Rights and Environment:***

At the concluding session of the Stockholm conference, the participants proclaimed that:

Man is both creature and moulder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. ... Both aspects of man environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights even the right to life itself.

The Principle 1 of the Stockholm Declaration established the foundation for linking human rights and environmental protection. It states 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." There are numerous instances where the attempts to protect the environment overlap with attempts to protect human rights and vice versa. It is, therefore, desirable to examine a few instances of how human rights and environmental protection are intertwined.

***A. Right to Development and the Need for Sustaining a Balance:***

This principle is inevitably linked with human rights and environmental issues. Like the right to clean environment, the right to development is seen also as an emerging human right (Bulajic, 1993). The United Nations Declaration on the Right to Development 1986 in its preamble states that: "Development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefit resulting there from."

Thus, right to development is a kind of intrinsic right which individual state of the world commands to enjoy on one side and its subjects on the other, in terms of economic, social, cultural and political perspectives (Maidin, et. al, 2011). The right to development is an independent human right and, at the same time, a precondition for the satisfaction of other human rights. It could be perceived both for individuals and for states, as a right of access to a means essential for the fulfillment of human rights contained in international instruments of human rights, such as the Universal Declaration of Human Rights and the International Covenants on Human Rights, and as an upshot to the right to self-determination. Development, therefore, envisages the advancement and protection of human rights – civil and political, as well as economic, social and cultural rights (Ansari, 1991).

This shows that the right to development has both individual and collective dimensions. On the one hand, the indigenous people rely heavily on resources within their reach for food and source of income (Bendick, 1983). This is seen as an effort by the local people to combat hunger and poverty but the end result may be the destruction of the environment and valuable species resulting in impediments to the realization of collective basic human rights if a meaningful balance between the protection of environment and development and fulfilling the basic needs of indigenous people is not created, as these people have customary rights that cannot be denied.

On the other hand, a state has a right to development both economically and to provide a conducive environment in manifest ways to its people to develop. All have to be within the premises prescribed by the Agenda 21 and the developing concept of green economy. The right to development as an inalienable right has to be understood in this perspective (Article 1 of the Right to Development, 1986). This suggests that a state has a right to make use of the available resources within its territory to develop itself both economically and socially vis-à-vis the protection of the environment. It, thus, warrants integrating environmental concerns into development project. The international community has acknowledged the link between the right to a healthy environment and other environmental rights and the right to development only in this perspective. Environmental problems and development are interrelated, and should be addressed together at the same time (Hannum, 1988; Ansari, 2012). However, by Article 3(3) of the Declaration on the Right to Development, states are required to ensure that the realization of such rights must also be pursued in the light of certain guaranteed human rights. It states that: "States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development. States should fulfill their rights and duties in such a manner as to promote a new international economic order based on sovereignty, equality, interdependence, mutual interest and cooperation among all states, as well as to encourage the observance and realization of human rights".

It is therefore argued that the right to development must not be compromised with the realization of the basic human rights. This is only practicable where environmental concern is integrated into development plans. In this perspective, environment and development must be seen as one, and should be dealt with together all

across the globe. To ensure the need for environmental protection, some limitations have to be placed on the right to development (Rich, 1988). Thus, the right to development should not be pursued at the cost of the community or at the expense of neighbouring state(s) communities whose rights may be endangered or affected. Therefore, a state cannot in the pursuit of the right to development embark upon a project in such a way as to harm the environment and imperil certain human rights, whether in the immediate neighbourhood or in the surrounding region. It is for this reason that public participation in decision-making processes and access to justice, in case of violation of human rights, have been made essential parts of almost all developmental activities.

Development as a human right has been acknowledged and promoted unequivocally at the global level by different instruments on human rights and at the national level through domestic legislations. United Nations Members States may not today legitimately call into question the right to development; it has grown to become a *jus cogens* rule. The United Nations Declaration on the Right to Development 1986 is a known international legal instrument, which has raised development to the category of a right. But development must be of a nature that allows the realization of certain human rights, especially the right to life. In other words, when there is an obvious breach of any of the human rights, development is said to have been compromised.

The fundamental point here is that while acknowledging the fact that the right to pursue economic development is states' sovereignty over their own natural resources and subjects, it cannot legitimately be exercised without due regard for the unfavorable impact on certain human rights in general and on the environmental rights in particular. As noted above, the attempt to regulate this right of states in this respect gave birth to the principle of sustainable development (Shutkin, 1991; Ansari, 2012). This principle recognizes the right of the states to exploit the available resources for their use, but hammered more on the need for such development to be a sustainable one, i.e. without compromising with the interests of future generations.

#### **B. Protection during Armed Conflict:**

This is another area that demonstrates a close connection between the protection of environment and human rights (Meron, 1992). The rule that provides for the state to caution itself during war to avoid unnecessary and long-standing damages to the environment of the "enemy" is as old as the development of international law itself, e.g. the principles of discrimination and proportionality. The modern international humanitarian law and international law of war and armed conflict have incorporated the need for environmental concern and its protection during such unfavourable circumstances. For example, the 1977 Protocol 1 to the 1949 Geneva Conventions on the Laws of War, which was negotiated and signed after the Vietnam War, in which a large track of Vietnam's mangrove forests were destroyed by excessive use of cluster bombs and defoliants that caused a widespread, long-term and severe damage to the mangrove forests that had very rich biodiversity, outlaws and prohibits the use of dangerous warfare capable of or expected to result into long-standing severe damages to the natural environment. It states that: "it is prohibited to employ methods or means of warfare which are intended, or may be expected to cause widespread, long-term and severe damage to the natural environment." The Protocol in its paragraph 55 elaborately depicted the relationships between human rights and environmental protection in the following words: "Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of warfare, which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population." The logical deduction here is that any long-term destruction caused to the natural environment, which may prejudice the health of the population or affect otherwise the survival of the population, deprivation of human rights, e.g. destruction of forests, will affect the life and livelihood of the people who depend on them in different ways. Furthermore, environmental matters were purposely dealt with in the 1976 Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, which was also negotiated and signed after the Vietnam War. Article 1 of the Convention provides that: "each state party to this convention undertakes not to engage in military or any other hostile use of environmental modification techniques having widespread long-lasting or severe effects as the means of destruction, damage or injury to other state party."

Of all laws or rules dealing with the humanitarian law, the United Nations General Assembly Guidelines for Military Instruction on the Protection of the Environment in Terms of Armed Conflicts contains ample provisions pointing to the indivisibility between human rights protection and environmental protection during war time. It states that: "Care shall be taken in warfare to protect and preserve the natural environment. It is prohibited to employ methods or means of warfare, which are intended, or may be expected, to cause wide spread, long-term and severe damage to the natural environment and thereby prejudice the health or survival of the population."

The guidelines further provide that: "the general prohibition to destroy civilian objects, unless such destruction is justified by military necessity, also protects the environment." It was even made an offence against international humanitarian law to cause destruction to the natural environment (Ansari, 1996).

There is no doubt that during war between two or more states, properties and valuable resources are bound to suffer; and this undeniably whether in the short-run or long-run would affect the enjoyment of basic human rights enshrined in most international human rights instruments and the constitutions of sovereign states. Humanitarian law and law of war and armed conflict, therefore, seek to prohibit, in addition to the two basic principles to be observed, widespread, long-term and severe damage to the environment during war or armed conflict. The laws are quite good, as they aim at protection of the environment, which, in turn protect a number of human rights, including environmental human rights. But the problem is with the general nature of the laws and their poor enforcement. This is evident from the wars that took place after the Vietnam War. The notable one among them is the Iraq War where civilian facilities were excessively damaged. This was sheer violation of the Protocol I and ENMOD. In view of this, the authors are of the opinion that the world community should mull as to how these laws can be made effective, so that human rights are ensured.

### **C. Environmental Refugees:**

The fast growth in the number of environmentally displaced people, internal and cross-border, due to unusual weather conditions caused by global warming testifies to the fact that environmental degradation might adversely affect environmental rights and other related rights (Pathak, 1992; Ansari, 2010, 2011). Generally speaking, environmentally displaced people are mostly internally displaced people who are forced to leave from their original living place due to adverse environmental conditions, e.g. long-lasting deluge, and drought, as they cannot get their subsistence at their original place of residence. The present cause of displacement of people around the world, especially in developing and least developing countries, is the result of unusual weather conditions because of the rise of average global temperature, i.e. global warming. The number of internally displaced people is going to increase, according to the November 19 2012 Report of the World Bank named “*Turn Down the Heat*”. The Report states that even when the treaty norms of the Kyoto Protocol of 1997 is strictly adhered to, the phenomenon of global warming is going to escalate, which will bring greater havoc to the people around the world in a more dreaded way (*New Straits Times*, 20 Nov. 2012) Some of such people cross the border in order to get refuge subsistence in other countries, but technically speaking they are not refugees, as they intend to go back to their own homeland when things become normal there. However, they get assistance from the UN High Commissioner for Refugees and other agencies and states on humanitarian basis. But if the environmental conditions worsen, there might be many more refugees that will, in that case, prefer to stay in other countries and then seek refugee status. This will pose an insurmountable humanitarian crisis around the world. All these, in short, can be said to be clear-cut cases of the violation of human rights due to adverse environmental conditions which is due to excessive emissions of greenhouse gases and for which most of the developed countries are responsible (Ansari, 2010, 2011). It is for this reason that the developed countries are duty bound to transfer technology, especially environmentally sound technologies as well as financial resources to developing countries so that they could be able to reduce their carbon dioxide emissions and take care of environmentally displaced people. Developed countries should also help developing countries in capacity building with respect to developing their capability in alternative and renewable energy sources, and in producing energy efficient equipment. If they simply give promises but do not fulfill them, the social and economic conditions in developing and least developed countries will worsen, which will result in further erosion of human rights. It has been rightly argued that the destruction of the environmental quality has manifested in “all kinds of ecosystem confrontation without limited to industrial accidents; chemical or biological changes in the environment or essential resources that render the region useless; economic development programs; inappropriate processing, and deposit of toxic waste” (Schmit, 2000). All these inevitably constitute huge threat to the enjoyment of basic rights (Stone, 2000).

Man-made tragedies like war and industrial disaster have also resulted in forced migration where people are compelled to leave their original abode. A good example of this was the Bhopal Disaster in India, which resulted into loss of lives and properties thereby endangering human rights. The destructions caused by such tragedy have in many instances led to sudden death, loss of eyesight, loss of property, and denial of family and private life of the affected people. This testifies to the fact that environmental tragedy can result into human rights violation and shows the imperativeness of the clarion call to incorporate the concern for the protection of environment in human rights issues. The victims of environmental disaster suffer from considerable social-cultural, economic and political consequences where human rights have successfully intervened (Ansari, 2010, 2011). In view of this, it is argued that there should be a separate international legal framework to deal with the menace of environmentally displaced people supported with a fund so that they do not live on the mercy of some rich states who extend some help on humanitarian ground. To take help from developed countries is their right because their sufferance is the result of the irresponsible economic development of those countries. It is for this reason that Elaine Hsiao said: “For the sake of international peace and security, it is imperative upon the international community to consider the plight and future of environmental refugees in the face of climate change. In the context of refugee protection, this means that environmental refugees must be given consideration under the UN Convention Relating to the Status of Refugees and its subsequent progeny. This can take the form

of an Additional Protocol Relating to the Status of Environmental Refugees that guarantees the fundamental and human rights of all environmental refugees, including populations displaced by climate change. Most importantly, however, we must, as an international community, take immediate and proactive action to mobilize resources and our imaginations in preventing the conditions that will require the invocation of an international convention just to protect the fundamental human rights of millions of people everywhere.”

***D. Universal Acceptance and Recognition:***

It is accepted that conservation of the environment will, in turn, help protect environmental rights and other related rights. The international community has demonstrated the desire and eagerness to ensure the realization of human rights and respect for the environment. Both the disciplines have a remarkable history in their respective area. Human rights have been a prime focal point of international law for over 60 years now. A right-based approach to environmental matters became apparent long after that, and became more vital after the Stockholm Conference on Human Environment (UNCHE 1972). The Universal Declaration of Human Rights 1948 (hereinafter UNDHR) symbolized the starting point of modern international human rights law, whereas the Stockholm Declaration was widely accepted as a sign post for the environmental protection in international law and the first instrument establishing the link between human rights protection and environmental protection (Abdulkadir, 2008). At present, there are more than two dozens of international instruments regulating human rights and environmental protection in their respective disciplines. There are a number of other instruments incorporating the two concepts by way of implications.

As stated above, both the concepts enjoy universal recognition. While human rights are portrayed as universal in nature, the protection of the environment is also recognized in the Stockholm Conference as a universal duty. The UNDHR in its preamble also demonstrates its universal aspiration in the following terms: “This Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the people of Member State themselves and among the people of territories under their jurisdiction.”

This shows that both protection of certain human rights in general and environmental rights in specific have been accepted worldwide as a matter of universal concern for obvious reasons, notably cross border and global impact of environmental degradation. It is for this reason preventive steps taken at international, regional and bilateral levels have proved to be effective for conservation of the environment and protection of environmental rights and other related human rights. However, it is also being felt by a large number of states, mostly developing and least developed countries that the present collective efforts are not enough. The authors, in view of this, are of the opinion that the imperatives of sustainable development at all levels and international cooperation in abatement and control of environmental degradation should be given priority over vested interests of states. The concept of green economy should not push these in the abeyance. The authors reiterate that collective efforts warrant augmenting transfer of technology, transfer of financial resources and capacity building. They should not be undermined or negated in any circumstances.

***Conclusion***

The increasing awareness of the relationship between human rights and the protection of the environment by all states jointly and severally began since the Stockholm Declaration of 1972 wherein a right-based approach to the protection of the environment was first emphasized. It is now well recognized that the safety of the environment might significantly contribute to human well-being and the enjoyment of human rights. A number of human rights instruments that followed the Stockholm Declaration have to some extent made reference to a healthy environment. Likewise, various environmental documents clearly convey their aspirations in terms of protection of human health, the environment, and the common heritage of mankind. Though much development has been made in clarifying the multifaceted and complex connections between human rights and environment, the discourse between the two areas of law and policy are still left with a number of unaddressed imperatives. The hypothetical deliberations on the relationship between human rights and the environment raise significant questions, namely: the demand for and the possible content of a right to a healthy environment; the responsibility and roles of private actors with respect to human rights and the environment; and the extraterritorial reach of human rights and environment. Other significant issues raised include the functionalization of international human rights obligations as to how to execute a rights-based approach to the accomplishment of many-sided environmental agreements; and how to supervise the implementation of human rights instruments that recognise the right to a healthy environment or interconnected rights. However, since the development of the two fields is a continuous process, it is hopeful that these issues be answered by subsequent future development.

Since environmental rights and certain other related human rights cannot be enjoyed without conservation of the environment, it is the duty of all states to make collective and individual efforts in order to save it.



Towards this end, it is suggested that the imperatives of transfer of technology, transfer of financial resources and capacity building, and sustainable development should not be compromised in any case at any cost.

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