

Challenges To Protect Planet Earth

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ABSTRACT: Environmental legislation is crucial for protecting and conserving biodiversity, given that its accelerated deterioration compromises human health and the ecosystems necessary to provide the quality of life that current and future generations deserve. It is the responsibility of the law, through its body of norms and principles, to address environmental issues from the perspective of the legal relationship between human rights and the environment, Earth rights, governance and the rule of law in the environment, and the regulation of extractivism and its ecological impacts, with the aim of establishing limits so that human activities remain within the margins that the scientific community has identified as safe.

Keywords: Environment, Human Rights, Environmental Law

I. INTRODUCTION

The growing concern for the environment has led to the creation of laws and treaties to protect biodiversity, in order to guarantee a sustainable future by protecting ecosystem resources, mitigating climate change, reducing the ecological footprint, preventing pollution, and, in general, promoting public health through essential resources such as clean air and water, which impact people's physical and mental well-being. Environmental law, as a legal discipline, establishes norms and principles to regulate the interconnection between the legal system and the ecological environment, implementing mechanisms for prevention, control, and sanctions for human practices in society that may disrupt the balance between economic development and the conservation of planet Earth.

Identifying the links between human rights and the environment, Earth rights, governance and the rule of law in the environment, and the regulation of extractivism and its ecological impacts is fundamental to protecting human dignity in the face of biodiversity degradation. This requires guaranteeing, through fairer and more accessible national and international laws, the right to a healthy environment, creating a legal framework that obliges governments and the business sector to promote sustainability, foster responsibility, establish mechanisms for justice and accountability, and thus build healthier, more equitable, and resilient societies. From this perspective, this research analyzes how violations of the right to a healthy and sustainable environment directly impact the realization of fundamental human rights.

Therefore, this study proposes the following: General objective: To promote respect for and guarantee of the human right to a healthy, clean, and sustainable environment, establishing an intrinsic interconnection with the full enjoyment of other fundamental rights (life, health, water, food) to ensure collective well-being and intergenerational equity. Specific objectives: a) To reflect on the direct relationship between environmental degradation and human rights violations and how environmental protection strengthens these rights. b) To promote the adoption and application of regulations that recognize the right to a healthy environment and establish clear obligations for States and companies. c) To strengthen technical collaboration between governments and

international organizations to address transboundary environmental challenges that affect human rights. d) To improve environmental impact assessment strategies for extractive projects, ensuring transparency and accountability of companies and the State, in line with the precautionary principle of environmental law.

II. THEORETICAL FRAMEWORK

Human activities, from the most basic to the most complex, have always required the use of the environment. From personal hygiene, which requires water, to the construction of mega-projects where we use crushed soil, all these actions aimed at obtaining benefits from the environment have led to such adverse environmental impacts that humanity itself, in its eagerness to exploit nature, has realized the terrifying consequences that can result from this very plunder. (Betancourt, Y. C., López, E., & Peñaloza, A. 2016, as cited in Vera Solano, 2022, p. [3])

In this sense, environmental protection is [...] a vital part of contemporary human rights doctrine, as it is a *sine qua non* for numerous human rights, such as the right to health and to life itself. [...] Damage to the environment can harm and undermine all the human rights declared in the Universal Declaration and other human rights instruments. (ICJ, Gabcikovo-Nagymaros Draft, paras. 91-2, as cited in Espinosa González, 2015, p. [15])

Vulnerable groups as a link: When discussing the interactions between these two areas of protection, it is necessary to refer to a relevant aspect that has been the subject of study: the special impact that environmental degradation has on vulnerable groups. In fact, for Cançado Trindade, the protection of vulnerable groups appears today at the confluence of human rights protection and environmental protection. (Cançado Trindade, 1992, p. 287., as cited in Espinoza González, 2015, p. [18])

Studies have also begun on the impact of certain environmental factors, such as the consequences of climate change, on women, a fact that, in its 2009 report, the OHCHR causally linked to “gender discrimination, inequalities, and gender roles.” (Office of the United Nations High Commissioner for Human Rights [OHCHR], 2009, para. 45, as cited in Espinosa González, 2015, p. [18])

Development is a condition in which the genuine needs of the population are met through the rational and sustainable use of natural resources and systems. Their use must be based on technology that respects cultural aspects and human rights. Furthermore, all social groups must have access to basic organizations and services, such as education, housing, health, and nutrition. Likewise, their cultures and traditions must be respected. (Organization for Economic Cooperation and Development, 2012, as cited in Mallma) Pérez, 2021, p. [3])

III. METHODOLOGY

This research employs a dogmatic and theoretical methodology, studying positive law to interpret and systematize it. It addresses the existing environmental reality of the planet, focusing not only on the law itself but also on legal doctrine to gain a deeper understanding of the intrinsic relationship between human rights and environmental law.

Furthermore, through the historical-logical method, it aims to understand the deterioration of biodiversity and the evolution of the laws enacted to protect ecosystems.

IV. DEVELOPMENT

4.1. LEGAL RELATIONSHIP BETWEEN HUMAN RIGHTS AND THE ENVIRONMENT

All human beings depend on the environment in which they live. A safe, clean, healthy, and sustainable environment is essential for the full enjoyment of a wide range of human rights, including the rights to life, health, food, water, and sanitation.

In the absence of a healthy environment, we are unable to realize our aspirations. And we may not even achieve the minimum standards of human dignity. (United Nations [OHCHR], n.d.)

Human rights and the environment are fundamentally intertwined. Environmental law, known and applied since antiquity, when laws were enacted to regulate the sustainable use of resources, emerged as a specialized branch of law in contemporary times to address problems such as deforestation, desertification, water, air, and soil pollution, and, in general, any ecological damage that could compromise the well-being of humanity.

Since the 20th century, significant progress has been made in environmental law. This period has been marked by the creation of laws and international treaties designed to address the impacts of ecological degradation, which constitutes a constant threat and compels this branch of law to evolve over time in response to the challenges that threaten the stability of the planet and life itself, demanding urgent and cooperative solutions. In this context, the global agenda includes new legal instruments for the conservation of natural resources. (Madero University [UMAD], n.d.)

According to the United Nations Office of the High Commissioner for Human Rights (OHCHR), the human right to a safe, clean, healthy, and sustainable environment implies that: Good practices demonstrate that environmental progress and the protection of human rights against environmental harm are possible (Special Rapporteur's Report, 2020). The Special Rapporteur has noted that legal recognition, in addition to being an obligation, is itself a good practice, which can be achieved through constitutional protection, inclusion in environmental legislation, and the ratification of regional treaties that include this right, such as the 2018 Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, better known as the Escazú Agreement.

The normative standards compiled by the Special Rapporteur have been developed based on the two components of the right: procedural and substantive (Special Rapporteur's Report, 2019). The procedural elements include:

- The right to access information about the environment, so that people can protect and defend their human rights from potentially harmful environmental impacts.
- The right to broad, inclusive, and gender-sensitive public participation in environmental decisions.
- The right to justice and effective remedies in environmental matters.

Environmental rights are fundamentally a human right, which, in fulfilling their function, incorporates important and functional aspects of society and its ecosystem, as evidenced by the following:

More than 100 countries have incorporated the constitutional right to a healthy environment. When environmental rights are violated, people and the planet suffer a reduction in health and well-being.

On July 28, 2022, the United Nations General Assembly (UNGA) adopted a resolution declaring that all people on the planet have the right to a healthy environment. This landmark decision is the culmination of decades of mobilization by diverse stakeholders. The resolution, based on a similar text adopted in October 2021 by the Human Rights Council, urges states, international organizations, and businesses to intensify their efforts to ensure a healthy environment for all. (Geneva Environment Network, n.d.)

4.2. LAND RIGHTS

The right to land implies the recognition of human dignity as a guiding principle and foundation of human rights; that is, the inherent value of each person simply by virtue of being human. Within this framework, the right itself seeks to guarantee every human being safe and fair access to land and its resources for the realization of other rights such as food, housing, culture, and the survival of individuals and communities. This is fundamental for the practice of the principles of social justice, gender equality, and the protection of indigenous peoples,

adhering to solidarity and non-discrimination, and fostering equitable participation in the economic, political, and social spheres to build peaceful and inclusive societies.

In this context, specifically regarding the right of women and girls to land, this implies:

Greater leadership and autonomy for women, better economic opportunities, improved social security, and a dignified social standing. This helps build prosperous and resilient households and communities with higher incomes, better child nutrition, higher levels of education for girls, greater agency for women, and more sustainable use of natural resources.

However, in many Asian countries, women's access to land and their decision-making power over land—in terms of ownership, use, and security of tenure—is limited and often hampered by existing social norms and patriarchal attitudes. This is further exacerbated by restrictive policy instruments and legal frameworks and/or weak law enforcement at the local and national levels.

The lack of legal ownership and access to natural resources contributes to women's vulnerability to climate change.

The overlapping identities of women—as Indigenous, young, rurally poor, and urban, among others—define the importance of their access to land and natural resources. Indigenous women, for example, depend on traditional knowledge passed down through generations to sustain their daily lives. This knowledge, at the same time

Over time, land allows Indigenous women to preserve both their lands and territories and their culture. (Apolitical, 2023)

For many people, land is a source of livelihood and is fundamental to economic rights. Land is also often linked to people's identity, and is therefore connected to social and cultural rights.

The human rights aspects of land affect a range of issues, including: a) poverty reduction and development, b) peacebuilding, c) humanitarian assistance, d) disaster prevention and recovery, and e) urban and rural planning.

Food insecurity, climate change, and rapid urbanization have also brought renewed attention to how states and private actors use, control, and manage land. (...)

Failure to effectively prevent and mitigate environmental degradation and the negative impacts of climate change could drastically reduce access to land, especially for marginalized groups. (OHCHR, 2015)

4.3. GOVERNANCE AND THE ENVIRONMENTAL RULE OF LAW

Today's globalized world demands effective and efficient responses to the constant threats that chemical, physical, or biological substances or agents pose to planet Earth and the security of humanity. These substances can negatively influence and modify the environment.

In this regard, the United Nations Environment Programme (UNEP) promotes the development of robust governance systems. This requires the involvement of the State, civil society, and the private sector through the implementation of norms, policies, and institutions that determine how humans interact with the environment and ensure its sustainability.

For its part, the rule of law in the environment is the existence of a rule of law that is integrated with environmental needs and international norms and standards, making a situation of sustainability viable. The concept is related to the understanding of environmental rights as human rights, advancing a link between respect for human dignity and the preservation of the environment. (Rule of Law in the Environment, 2025)

Likewise, for the purpose of expanding on the information in this section, reference is made to the work of Luigi Ferrajoli, **Towards a Constitution of the Earth: Humanity at the Crossroads. Structures and Processes. Law**, which states that:

There are global problems that are not part of the political agenda of national governments, even though the survival of humanity depends on their solution: global warming, threats to world peace, growing inequality, the deaths of millions of people every year due to lack of drinking water, basic food, and essential medicines, and the masses of migrants fleeing the conditions of misery and degradation in their countries.

But these tragedies are not natural phenomena, nor are they mere injustices. On the contrary, they are massive violations of the fundamental rights stipulated in the various existing constitutional charters, both national and supranational. Humanity today finds itself at a crossroads in history, surely the most dramatic and decisive: to suffer and succumb to the multiple global catastrophes and emergencies, or to confront them by establishing suitable constitutional guarantees on a planetary scale, designed by legal and political reasoning.

Only an Earth Constitution that establishes a global framework for the protection of nature's vital resources, prohibits all weapons as illicit goods, beginning with nuclear weapons, and introduces a global tax system and suitable institutions to guarantee the defense of freedoms and the exercise of social rights can achieve the universalism of human rights. The project of an Earth Constitution is not a utopian hypothesis, but the only rational and realistic response capable of limiting the unchecked power of states and markets for the benefit of the planet's habitability and the survival of humanity. (Ferrajoli, 2022)

In an increasingly interconnected and challenging world, Luigi Ferrajoli stands as an intellectual guide with his work, **For a Constitution of the Earth: Humanity at the Crossroads**, published in 2022. This treatise immerses us in the depths of law, democracy, and global governance, offering a masterful reflection on the intricate relationship between these elements in contemporary society. Through a comprehensive and compelling analysis, Ferrajoli not only raises crucial questions but also firmly defends the urgent need for an Earth Constitution to address the global challenges humanity faces today. (...) Luigi Ferrajoli delves into one of the most pressing challenges of globalization: climate change. This phenomenon knows no national borders, and its effects are felt in every corner of the planet. The author emphasizes the importance of recognizing that climate change is not only an environmental issue but also a human rights problem. The most vulnerable communities are often the ones most affected by the consequences of climate change, which makes the fight against this phenomenon a matter of global justice and protection of the fundamental rights of present and future generations. (Fierro Rodríguez, 2022)

4.4. REGULATION OF EXTRACTIVISM AND ITS ECOLOGICAL IMPACTS

Given the growing public attention currently focused on environmental issues, government entities and companies have an obligation to take the necessary measures to mitigate the disruption of the ecological balance caused by human activity.

Unfortunately, the extractive logic, in general terms, favors the implementation of projects and activities that generate adverse ecological consequences, impacting not only the enjoyment of the right to a healthy environment but also the realization of other rights.

Extractive industries invade territories. Initially, mining, oil extraction, or intensive agriculture expand, bringing with them a series of economic benefits. However, the social and environmental impacts are enormous and can have repercussions at the local, regional, or global level because they degrade biodiversity, natural

resources, and the quality of human life. Consequently, the visibility of these problems influences the presentation of more complaints and the judicialization of cases, which are basically a clear manifestation of citizens' concern about the ecological crisis generated.

The term extractivism likely became popular in Latin America associated with the label "industry." Indeed, the term "extractive industries" appears in some publications from the beginning of the 20th century and was used by several economists at least since the 1950s, but it became very popular following the push from several developed countries, international agencies, and banks. (...) The World Bank contributed significantly to popularizing these ideas. The bank had a working group on "extractive industries," specifically focused on oil, gas, and minerals, which it considered to have enormous potential for alleviating poverty, generating employment, providing tax revenue, and contributing to sustainable development (World Bank, 2009). (Gudynas, 2015)

Extractive industries as an economic engine.

According to the Economic Commission for Latin America and the Caribbean (ECLAC), in 2022, the mining and oil sector accounted for nearly 50% of exports in countries like Chile, Peru, and Venezuela, while in the Caribbean, bauxite mining in Jamaica and Guyana remains key to their economies. However, this model has generated significant environmental impacts, such as deforestation in the Amazon, river pollution, and biodiversity loss, leading to increasing social conflicts between Indigenous communities, environmentalists, and multinational corporations.

Despite the economic benefits, extractivism deepens inequalities in the region. Organizations such as Global Witness have pointed out that Latin America is one of the most dangerous regions for environmental defenders, accounting for more than 60% of the murders of activists recorded worldwide in 2023. (Latin American Association for Popular Education and Communication [ALER], 2025)

Similarly, the series, titled Effects of Extractivism in Latin America, developed by the International Land Coalition - Latin America and the Caribbean (ILC LAC) together with the Regional Platform of Land and Territory Defenders and Land Matrix - Latin America, highlights that:

Studies reveal the multifaceted nature of extractivism in the region and show that the mechanisms that facilitate it are repeated across different geographies and communities. Key elements identified include companies' poor practices in engaging with communities, such as intimidation, bribery, and the lack of prior consultation, as well as the impact on community governance structures—co-optation of leaders, non-recognition of local authorities and livelihoods, and practices that undermine the social fabric and territorial governance. Added to this is the flexibility of legal provisions that disregard international regulations guaranteeing the rights of Indigenous peoples in favor of frameworks that facilitate the expansion of extractive industries, as well as legal loopholes that are exploited by companies, among other strategies. (International Land Coalition, 2024)

V. DISCUSSION

This research demonstrates that human survival depends on the constant exploitation of natural resources, from obtaining drinking water to extractive activities for the construction of megastructures. Unfortunately, there has been an unprecedented lack of awareness and responsibility regarding their use, which has generated an unprecedented ecological crisis, as highlighted by Betancourt, Y. C., López, E., & Peñaloza, A. (2016).

In this sense, environmental protection is of vital importance, as it is a pillar of human rights. Ecological degradation undermines the enjoyment of a healthy environment, which is the sine qua non for exercising other fundamental rights. Without clean air, drinking water, and nutritious food, rights such as the right to life (Art. 3

UDHR) or the right to health (Art. 25 UDHR) are impossible to guarantee. According to Espinosa González (2015), the original idea of the TIJ, Gabčíkovo-Nagymaros Project, paragraphs... 91-2.

Environmental justice approaches are also needed to include vulnerable groups, such as Indigenous peoples, in decision-making processes related to their territories, free, prior, and informed consent for projects, and protection against hazardous materials. These groups disproportionately suffer environmental disruptions such as pollution and climate change due to socioeconomic and locational factors that limit their access to resources and protection, leading to health, safety, and human rights problems. (Cançado Trindade, 1992), p. 287.

Factors such as climate change and the decline in biodiversity in general directly and disproportionately impact women's lives, creating conditions of vulnerability to gender-based violence, food and water insecurity, and also contributing to health problems, particularly regarding reproduction and motherhood.

Gender roles, discrimination, and inequality force women to shoulder a greater burden in areas such as resource gathering: water, firewood, and food, making them more vulnerable to the forces of nature (higher mortality rates and health problems). They generally face limitations in decision-making and access to resources, which often infringes upon their land rights. This necessitates the implementation of inclusive norms and policies to empower them and enable them to enjoy equitable and sustainable development. (Office of the United Nations High Commissioner for Human Rights, 2009)

On the other hand, and consistent with Mallma Pérez's (2021) assertion, extractivism as a globalized economic model destroys the bonds between people and nature. It is primarily geared towards the massive extraction and export of raw materials such as minerals, oil, timber, gold, and gas, among others, generating foreign exchange for the state and corporations. Furthermore, it fosters territorial conflicts, ecosystem degradation, biodiversity loss, and the displacement of communities, primarily affecting Indigenous and peasant groups, thus exacerbating inequalities.

VI. CONCLUSIONS

Ensuring a healthy, clean, and sustainable environment is revealed throughout this analysis as a cornerstone for the realization of human rights such as life, health, water, and food, recognizing their intrinsic interconnectedness to guarantee collective well-being and intergenerational justice. Shared responsibility among states, the private sector, and civil society is crucial, and nature is therefore essential for the resulting equitable development that benefits all people.

Environmental degradation and human rights violations are not only ecological crises, but also human rights crises because they threaten the enjoyment of a dignified life, disproportionately affecting the most vulnerable. Protecting the environment through legislation that enshrines the right to a healthy environment and promoting environmental justice are essential for achieving the principle of human dignity, maintaining peace, and promoting sustainable development. Robust environmental regulations establish concrete and enforceable obligations for states and businesses, outlining clear responsibilities, mechanisms for sanctions, and redress for damages.

The complexity of transboundary challenges requires the establishment of technical collaborations and strategic alliances between governments and international organizations to address global environmental crises. These crises negatively impact the sustainable management of natural resources, undermining the intrinsic relationship between human rights and a healthy environment. It is imperative to implement coordinated actions such as harmonizing laws, sharing technologies, and strengthening local capacities, as the impacts of climate change and biodiversity loss demand immediate attention to guarantee humanity a safe and sustainable future through cooperation, oversight, and citizen participation. Only in this way can a just future be ensured.

Environmental impact assessment strategies for extractive projects are not only a fundamental practice, but also an ethical and legal imperative. Strengthening environmental institutions is crucial to conducting effective environmental impact assessments that are aligned with sustainability and protect ecosystems. This is essential to prevent water and soil contamination from chemical waste, deforestation, greenhouse gas emissions, and the overexploitation of resources, all of which increase vulnerability to adverse natural events and consequently affect human health and ecosystems, generating socio-environmental conflict.

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