

Abhinav Mehrotra & Dr. Biswanath Gupta | August 29, 2022

How to Implement the Right to Clean and Healthy Environment

On July 26, 2022, the UN General Assembly passed a resolution that everyone on earth has the right to a clean, healthy and sustainable environment. This resolution has been passed in the background of countering the alarming degradation of the natural environment and climate change. This degradation is a pressing threat to humanity in general. Though it is known that General Assembly Resolutions are not binding upon the state parties, it holds a lot of persuasive value. States are morally responsible to abide by the resolution.

While passing this resolution, General Assembly mentioned a few important declarations which are the cornerstone of international environmental law. These are the Universal Declaration of Human Rights, Stockholm Declaration, and Rio Declaration. This resolution is based on the similar text adopted by Human Rights Council where it urges states, international organizations, and business enterprises to scale up efforts to ensure a healthy environment for all. It is the expectation that this resolution may have some trickledown effect promoting countries to adopt changes in the constitutions and treaties to implement these laws. United Nations Environment Program Executive director while commenting on the resolution opined, "This resolution sends a message that nobody can take nature, clean air, and water or a stable climate away from us- at least not without a fight". It addresses the triple planetary crisis of climate change such as nature and biodiversity loss, and pollution and waste. It will help the states to accelerate the implementation of the Climate Change framework of the United Nations. This collective decision may work as a future legal norm for the universal recognition of a clean, sustainable, and pollution-free environment.

This resolution is linked with Biodiversity Convention 1992. The Resolution in its preamble mentions the background of this legal document. It mentions Resolution 70/1 of Sept. 25, 2015 entitled "Transforming our world: The 2030 Agenda for Sustainable Development". This document is a more comprehensive and far-reaching and people-centered approach to sustainable development. Article number 1 and 2 of this resolution reiterated the commitment to sustainable development. More importantly, the last article of the resolution calls upon states, international organizations, business enterprises, and other relevant stakeholders to adopt policies, enhance international cooperation, strengthen capacity-building and continue to share good practices in order to scale up efforts to ensure a clean, healthy and sustainable environment for all.

In this light, there arise a few questions regarding the link between environment and human rights and the need to include the affected population within the domain of the decisions making concerning the environment like the indigenous populations.

In simple terms, the close connection between human rights and environmental protection can be understood from the dependence of individual rights like life, health, food, water, and housing on the existence of a safe and healthy environment. Similarly, the concept of sustainable development integrates this relationship by highlighting the economic, social and environmental sides. It states that the development carried out must not only meet the needs of the present but also not compromise the ability of future generations to meet their own needs.

The relationship is mostly understood from the principle of protection, respect, and remedy. According to this principle, protection needs to be guaranteed against the abuses resulting from the activities of commercial nature or transnational corporations. The principle of respect ensures that the corporations comply with the norms through due diligence. Coming to the aspect of remedy, under the Principle 10 of the Rio Declaration on Environment and Development, there is an emphasis on the need for effective access to administrative and judicial proceedings including redress and remedy. This principle assumes greater significance especially given the fact that people harmed by environmental degradation are often ethnic minority groups and indigenous peoples who are marginalized within their own countries and effectively excluded from political participation or redress under national laws.

Taking the specific case of indigenous peoples, who have suffered historical exploitation and deprivation as part of the society, there is a need for their participation in policy deliberations by demanding continuous engagement and accountability of those actors making weak human rights commitments. The reasons owing for such demands trace their origin from the lack of recognition by the state of the genuine problems faced by them such as the primary services like education, health, and the lack of opportunities for employment. Thus there is a need for ensuring their well-being and welfare which means the right to a clean and healthy environment needs to be complemented by taking into its ambit human rights and public health to constitute full security of the people.

Thus, to ensure the right to a clean and healthy environment, we need to ensure social justice; equality; protection, and local development among other things by the removal of insecurities like livelihood insecurity and ensuring security against economic and social oppression.

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**Abhinav Mehrotra is an Assistant Professor of OP Jindal Global University, India.*

**Dr. Biswanath Gupta is an Associate Professor of OP Jindal Global University, India.*

