

Environment and Human Rights: A New Approach to Sustainable Development

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The lack of success of many Rio initiatives makes it appropriate to consider new approaches, which should be rooted in recognition of an inalienable right to a safe and healthy environment.

The idea of 'Environmental Human Rights' is not a new one. Many international agreements since the 1972 UN Stockholm Conference have talked about it. Some 60 nations have constitutions or legislation intended to ensure this right. Interest has been further stimulated by the 2001 meeting of the UN Commission on Human Rights (UNCHR) which has called for an international seminar on this issue.

Since 1972 many problems have worsened. The Rio Summit sought to resolve them through Agenda 21 and the UNCED Conventions. However, attempts to implement these agreements have largely failed to influence national policies and activities that lead to unsustainable growth. Laws and strategies intended to support the 'mainstreaming' of sustainable development have had little impact in most countries, while perverse resource use is still widespread and often unchecked.

These failures have led to calls for a new approach. Further pressure for change comes from the impacts of economic and social globalisation. Non-mandatory ('soft law') treaties such as the Rio agreements are an inadequate basis for effective control of these processes.

The need for environmental rights

It makes perfect sense to link human rights to sustainable development: the right to life cannot be realised without basic rights to safe

water, air and land. A human rights approach allows the quality of life of all people to be a central part of decision making.

There are two main approaches to human rights and the environment: the use of existing human rights, and the need for new rights. Existing rights are usually distinguished as (1) civil and political (2) economic, social and cultural. Civil rights provide for moral and political order, include the right to life, equality, political participation and association and are based on the Universal Declaration of Human Rights (UDHR), 1948. Economic, social and cultural rights provide standards for individual well being. The International Covenant on Economic, Social and Cultural Rights (1966) includes the right to health and the right of all peoples to manage their own natural resources.

These are indirect environmental rights – they suffer from a lack of precision on environmental protection and equity. Direct legislation and institutional changes are needed which recognise specific rights (substantive and procedural) to a healthy environment.

Defining environmental rights

Environmental human rights encompass three main areas:

- **The right to a clean and safe environment:** This is a 'substantive', basic right but is hard to define. Many support the idea that safe water and food security are 'basic human rights'. The UNCHR 'Draft Principles for a Declaration on Human

KEY CHALLENGES:

- **Ratify the Aarhus Convention, as an important step to recognising all people's environmental human rights**
- **Recognise the need for a strong global commitment to environmental rights as an essential element in efforts to realise sustainable development**
- **Support calls for discussions at WSSD on the negotiation of a UN Convention on sustainable development and human rights, and engage in dialogue with civil society and other governments on what this should entail**
- **Emphasise that the rights-based approach, founded on principles of equity, is central to sustainable development, and provides an important means by which to counter the negative impacts of economic and social globalisation**

Rights and Environment' from 1994 suggest how these might be defined.

- **The right to act to protect the environment:** This is inherent in the UN Declaration and associated Conventions, through the right to organise and to free assembly, but is under threat in many nations.

- **The right to information, to access to justice, and to participate in environmental decision-making:** These enable citizens to play an active part in creating a healthy environment, and are linked to several UN Conventions and Declarations.

These rights do not exist in isolation: they are not separate from other human rights. They can protect the most vulnerable people in society: the poor, women, and minorities. Some question whether the introduction of inalienable human rights to a safe environment is the way forward and suggest that adequate rights already exist. This is simply not the case. Substantive rights to a safe environment are still implied rather than explicit.

Current work towards environmental rights

- **The UNCHR 1994 report:** A clear focus emerged in this major report on Human Rights and the Environment which included a full analysis of environmental rights and a set of 'Draft Principles'.

- **The Aarhus Convention:** Agreed at the 1998 Environment for Europe conference (and due to be ratified), it is playing a major role advancing environmental justice issues in all parts of the UNECE region. However, the rights advanced do not on their own guarantee the right to a safe environment. There were proposals to turn this Convention into a global agreement. This is unlikely to be acceptable to many nations, but underlying principles are exactly those referred to in Principle 10 of the Rio Declaration.

- **A southern perspective:** Agenda 21 rightly points out that unsustainable consumption and production in richer nations is the "major cause of continued environmental degradation" but this is not purely a northern issue. In many of the poorest nations there are still problems with poor management of resources and inequality of access and ownership. Environmental laws are weak and subject to manipulation by the executive and are often not implemented. There is little commitment to implementing convention obligations and to integrating them into public programmes. There is also an ongoing lack of local control over resources. These factors indicate a failure to respond to the Rio Conventions whose underlying goal is to improve conditions, particularly at the community level.

- **Environmental rights and environmental justice:** The US environmental justice movement has developed a human rights approach to sustainable development. This movement grew when research showed that hazardous installations such as waste dumps were usually sited in areas where most of the population were poor and from ethnic minority groups.

Its aim is that no person or group of people should shoulder a disproportionate share of negative environmental impacts.

Globalisation and rights

The complex impacts of globalisation have increased the influence of international markets, with new pressures on natural resources and eco-systems, and unsustainable levels of consumption. There has been little attempt at an international level to address the long-term costs of this process on sustainable human development. While the desire to open new markets for those currently excluded may be an acceptable aim, there have been a number of cases where trade liberalisation has cut across moves to improve environmental quality. This has been a factor in generating much of the opposition to globalisation.

One way to ensure that globalisation is controlled is to strengthen international organisations and agreements. If these are to have real powers they must be rooted in international human and environmental law. Adoption of global environmental rights should be part of the process of ensuring that globalisation is controlled so that it leads to sustainability.

Towards 2002

To date, discussion on the 2002 Summit has recognised that many of the key issues in Agenda 21 have not been adequately addressed, that new funding has not been made available, and that there is a 'crisis of implementation'. It is also recognised that action on poverty will need to be central to outcomes from 2002. The issue of environmental human rights is entirely supportive of that work.

This year the UNCHR reaffirmed that "human beings are at the centre of concerns for sustainable development and that they are entitled to a healthy and productive life in harmony with nature". The Commission also called for a joint seminar with UNEP on human rights and the environment in the framework of Agenda 21. This seminar provides an important first step towards agreement at Johannesburg that the UNCHR and UNEP should work together to develop a draft Convention on these issues, in consultation with governments and civil society, which need not involve amending the UDHR.

ANPED is campaigning for such an agreement and encouraging governments to consider environmental rights and to strengthen or establish legal frameworks which will help deliver those rights to all citizens.

Conclusion

Sustainable development requires new approaches at every level: environmental human rights can provide the basis for such approaches. Such rights would provide a common base under international law for all future action on sustainable development. While rights issues have been divisive in the past the many national commitments in this field suggest a common platform for action. Work by ANPED suggests that support exists for this step forward which could inspire many groups to become involved in the 2002 process to achieve positive outcomes. ●