THE RELATIONSHIP BETWEEN HUMAN RIGHTS AND ENVIRONMENTAL PROTECTION

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Abstract. There is growing global awareness of the environmental challenges that society is now facing, causing the intricate relationship between human rights and environmental protection to become a pivotal and complex topic.

The recognition of the fact that human well-being is inseparably linked to health, the quality of the environment, and sustainability has given rise to numerous debates that explore the synergies and conflicts between these issues. This relationship is developing on the basis of a constantly evolving international legal framework, highlighting the urgent need both to address existing environmental threats and to provide a progressive, teleological reading of human rights provisions that involves their adaptation to emerging economical, technological, social, and other changes in the world. The question of the relationship between these two areas is also interesting in view of the fact that although international environmental law only emerged relatively recently, the protection of environmental rights alongside the longstanding history of human rights protection is now becoming increasingly important.

The basis for this discussion lies in the fact that there has been a shift in the treatment of environmental considerations from a purely human-centered

approach to the recognition of the need to protect the environment in itself. This article analyzes the correlation between human rights protection and the protection of the environment by delving into the evolving international framework and the manner in which international human rights instruments have been adapted to address the interconnected challenges posed by environmental degradation. This article also aims to reveal the diverse dimensions of this relationship, shedding light on both the potential for cooperation and existing conflicts resulting from the desire to protect the environment and human rights.

Keywords: human rights; environment; environmental protection; link requirement; sustainable development.

Introduction

The essence of this topic lies in the fact that there is strong interrelation between human rights protection and the protection of the environment, and it is important to show that there are moments of conflict along with common interests and common areas of regulation. It is also important to note that the scientific community does not have a consistent or unified opinion on the relationship between human rights and environmental law. Therefore, in almost all cases, the relationship between these two issues is regarded as one of synergy, but at the same time there is a need to show that areas of conflict exist. Accordingly, the novelty of this article lies in the fact that there are many approaches to the correlation of these ideas in the scientific literature, which are collected and examined using examples of human rights within the environmental context.

The problematic issue is that despite the existence of a large number of approaches to the correlation between these two issues, due to their complexity and constant development it is still impossible to identify a single correct approach. Therefore, the purpose of this article is to examine existing approaches to the correlation between international human rights and environmental law and to

elaborate on their advantages and disadvantages via the analysis of several human rights provisions.

The research methodology primarily involves the literature search method, which entails a thorough review of all available material related to the topic, including: the legal framework governing both the protection of human rights and environmental issues; EU law; the practice of international human rights courts and other institutions of borrowed fora, such as the European Court of Human Rights (ECtHR) and the International Court of Justice (ICJ); as well as the practice of specialized environmental institutions and other relevant scientific resources.

The main feature of modern international law in this regard is its focus on protection of the environment, essentially for human purposes. At the same time, the environment cannot be regarded only as a useful resource. It must be mentioned that international environmental law is a relatively new field of law. In this respect, it can be said that the moment of foundation of modern international environmental law was the United Nations Conference on the Human Environment, which is also referred as the Stockholm Conference on the Human Environment. This Conference was conducted in 1972, and one of its main outcomes was the adoption of the Declaration on the Human Environment, or the Stockholm Declaration. Despite the fact that this Declaration was one of the earliest soft law instruments concerning the environment, it already included some references to human rights at this early stage. In Principle 1 of this Declaration, it is stated 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."[1]

What makes this topic more interesting is that it is possible to say that international environmental law is still in its early stages of development, while human rights protection has a long history and is a very vivid field of law. By calling it

1 "Declaration of the United Nations Conference on the Human Environment", U.N. Doc. A/Conf.48/14/Rev. 1" (1973); 11 I.L.M. 1416 (1972).

"vivid," the author points to the constant adaptation of human rights protection to the new reality, taking into consideration the development of moral, social, and economic standards, the emergence of new technologies, and the need to face a number of other threats to the infringement of human rights and freedoms.

Therefore, a number of human rights can be regarded as instruments for the protection of the environment, and this article will illustrate this on the basis of the analysis of certain human rights provisions within the environmental context. Namely, this covers general rights, such as the right to life, health, food, water and sanitation, adequate living standards, culture, and even the right to private and family life. On the other hand, specific environmental rights such as the right to an environment of a certain quality, information relating to the environment, participation in decision-making processes relating to the environment, and access to justice are also covered.

As was aptly stated in an OHCHR study, "Environmental degradation has the potential to affect the realization of human rights." This study also shows that there is a number of environmental threats that may have an adverse impact on the realization of human rights and the overall well-being of society. Among the most important threats, the OHCHR defines: atmospheric pollution issues (including air pollution, climate change, and the depletion of the ozone layer); land-based pollution (including land degradation, deforestation, and desertification); water pollution (including the degradation of water quality, the shortage of freshwater resources, and the exploitation of fisheries); pollution caused by hazardous waste or chemicals; a loss of biodiversity; and an increasing number of natural disasters.[2] This data shows that it is vital to ensure the appropriate level of environmental protection as it is a necessary component for the realization of human rights and freedoms.

2 "Analytical study on the relationship between human rights and the environment prepared by the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General", paragraphs 15-22.

1. THE CORRELATION BETWEEN HUMAN RIGHTS AND ENVIRONMENTAL PROTECTION

Historically, it can be observed that both of these areas have mutually influenced each other. As was mentioned before, such influence is usually described as synergy, which may be seen from numerous perspectives. However, there are also a number of issues which demonstrate some areas of tension and conflict.

In this context, it would be appropriate to show the connection between the protection of human rights and the environment via the analysis of environmental adjudication. There are two ways to invoke the protection of environment – either by applying to:

1. specialized courts which were specifically created to resolve disputes within the environmental context; or
2. borrowed fora, namely courts which mainly deal with cases of other areas of environmental law, but at the same time take into account some environmental considerations.[3]

It should be mentioned that the majority of international disputes relating to environmental issues are resolved by means of borrowed fora, i.e., they are usually resolved outside the environmental jurisdiction and away from procedures specifically established to deal with such issues.[4]

Regarding specialized environmental courts, it is possible to define a number of approaches.

1. The establishment of specific dispute settlement procedures within multilateral environmental agreements. For example, the Paris agreement, which may be regarded as a Protocol to the United Nations Framework Convention on Climate Change (UNFCCC), has a dispute settlement clause which refers to Article 14 of the UNFCCC, stating that this provision is

3 Pierre-Marie Dupuy and Jorge E. Viñuales, *International Environmental Law. Second edition* (New York: Cambridge University Press, 2018), 300, paragraph 2.

4 *Ibid.*, p. 300, paragraph 3.

to be applied mutatis mutandis.[5] This Article provides that Member States have the possibility to refer a dispute to the ICJ or to an arbitration tribunal.[6] However, the MEAs usually constitute that a Member State must give its express consent to the application of dispute settlement provisions to its case, and few countries want to be bound by such provisions. Subsequently, these dispute settlement provisions have never been used in practice. Moreover, the Paris agreement also includes a non-compliance mechanism, which is a non-confrontational, non-judicial, and consultative procedure led by the Committee. This should also be mentioned in the context of international environmental law dispute settlements.

2. The establishment of special procedures within existing courts and quasi-court institutions. This may be achieved in two ways: some institutions are empowered with the specific authority to resolve cases within the environmental context (namely, the Permanent Court of Arbitration); while in others separate chambers have been created to deal with environmental issues (for example, such chambers may be found within the ICJ and the International Tribunal for the Law of the Sea). The ICJ deals with two types of cases – contentious cases and advisory proceedings/opinions – but it must be added here that there is a lack of enforcement methods, as its decisions are binding only for the parties of the case.

3. The establishment of a separate court institution that would deal purely with environmental matters. The project of creating a separate international environmental court was prepared by Italian judge Amedeo Postiglione, who later created the International Court of the Environment Foundation (ICEF).[7] However, it is possible to state that this project was not successful because of a number of reasons, in particular: difficulties in defining the jurisdictional scope of the institution; the risk of tensions between such a specialized court and other international courts; the prevalence of soft law

5 "Paris Agreement", adopted 12 December 2015, Article 24. https://unfccc.int/sites/default/files/english_paris_agreement.pdf.

6 "United Nations Framework Convention on Climate Change", adopted in 1992, Article 14(2). https://unfccc.int/resource/docs/convkp/conveng.pdf.

7 Dupuy and Viñuales, *supra note*, 3: 302.

provisions in international environmental law; the significant number of broad formulations, etc.[8]

As was noted above, international environmental disputes are increasingly being resolved by means of borrowed fora. In this category, there are two types of court institutions which resolve disputes within the environmental context: general (such as the ICJ); and specialized (for example, the ECtHR, the WTO, and investment arbitrations). Therefore, there are different levels of openness in relation to environmental considerations, and this may be determined only after the analysis of the relevant courts' practice. The level of openness, in turn, may be determined by the extent of the application of the precautionary principle and the usage of integration techniques. The scientific literature distinguishes three distinct conceptual approaches depending on the extent of openness: welcoming, neutral, and reluctant.[9]

The practice of human rights courts is the brightest example of a welcoming jurisdiction, as both of these fields are closely interrelated because environmental considerations may be regarded as a constituent part of some fundamental human rights and freedoms, or as prerequisites to the realization of the latter. Notably, the ECtHR has repeatedly recognized the importance of the precautionary principle, while the systematic application of integration techniques may be seen in the constant references that the ECtHR makes to the Aarhus Convention, which protects procedural environmental rights.[10]

The ICJ exemplifies the neutral level of openness, as along with its dispute resolution function the Court is also empowered with the law-making function, which imposes an additional level of responsibility on it. Therefore, the ICJ merely acknowledges the existence of the precautionary approach, without providing its own interpretation. At the same time, the Court actively uses the systemic

8 Dupuy and Viñuales, *supra note*, 3: 303.

9 *Ibid.*, 304.

10 *Ibid.*, 304-305.

integration technique.

Regarding reluctant jurisdiction, it is obvious that international courts and quasi-court institutions which resolve disputes in the field of international business relations remain reluctant when it comes to issues related to international environmental law. Thus, the dispute settlement body of the World Trade Organization as well as tribunals dealing with investment cases can be considered as examples of bodies who exercise the reluctant approach to environmental considerations.

This analysis highlights the very low level of protection of environmental law issues by specialized environmental institutions. On the contrary, international judicial bodies established for the protection of human rights play a very important role in the protection of environmental issues. It is for this reason that international judicial bodies established for the protection of human rights are regarded as bodies exercising a welcoming jurisdictional attitude towards environmental disputes.

The close relationship between the protection of human rights and the protection of environmental law is also reflected in the fact that both of these areas of law are in constant development, and the field of human rights protection is constantly expanding its scope. Consequently, in addition to expanding the range of existing rights to include environmental considerations, in a number of international documents new rights that focus strictly on preserving an environment of sufficient quality are also emerging. For example, on 27 September 2022, the adoption of the Recommendation to Member States on human rights and the protection of the environment by the Committee of Ministers took place.[11] Accordingly, the preservation of an environment of good quality is a foundation and prerequisite for the realization of human rights and freedoms, which underscores

11 "Recommendation CM/Rec(2022)20 to member States on human rights and the protection of the environment", adopted 27 September 2022.

the significant interrelationship between these two fields and the importance of ensuring a good level of interaction between them.

Three main approaches to the link between the environment and human rights have been established in the relevant scientific literature, namely:

1. the environment as a condition for the enjoyment of human rights;
2. human rights as a tool for environmental protection;
3. human rights as a component of sustainable development.

These approaches show that these two fields of law reinforce each other, which means that there is a need to ensure a high level of consistency between them in order to achieve the fulfillment of both human rights and environmental protection.

Climate change is currently considered to be one of the main problems in international environmental law, as the impact of this problem is felt all over the world, and there is a need for the maximum joint effort of countries in order to resolve it. In this respect, the preamble of the Paris Agreement states the following:

> Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.[12]

12 "Paris Agreement", adopted 12 December 2015, paragraph 12 of the Preamble. https://unfccc.int/sites/default/files/english_paris_agreement.pdf

2. ENVIRONMENTAL CONTENT IN THE PROVISIONS OF HUMAN RIGHTS INSTRUMENTS

Alan Boyle noted that it is impossible to include environmental rights into any one of the categories or generations of human rights.[13] He instead proposed three main approaches that show that environmental rights encompass all categories of human rights. For example, existing civil and political rights in the context of environmental law should be treated as guarantees of the realization of rights related to access to environmental information, public participation in decision-making processes, and access to justice in environmental matters, which were established in the Aarhus Convention as its three pillars.[14] The drawback of this approach lies in the fact that it is purely anthropocentric, and the protection of the environment in this case is directed towards the preservation of the environment as a human habitat, not the environment in itself. According to Boyle's second approach, an environment of sufficient quality may be regarded as an economic or social right, providing that the environment has to be treated as one of the values protected by this category of rights, such as development. This approach recognizes the environment as a separate value, albeit while accepting the priority of other values protected by this group of human rights. The third approach states that an environment of a good quality should be seen as a collective or solidarity right, prescribing the right of communities or at least groups of individuals to define a sufficient level of environmental quality for the realization of human rights needs.[15] The latter approach is the most controversial, although it may be used in the context of cultural rights. In particular, it is relevant to the right to the enjoyment of cultural rights by different tribal groups because such

13 Alan Boyle, "Human Rights or Environmental Rights? A Reassessment", *Fordham Environmental Law* Review Vol XVIII (2007): 471.

14 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

15 Boyle, *supra note*, 13: 471-472.

groups of individuals have a close link to their traditional place of living, including the available land and resources.

Depending on the extent to which environmental considerations are protected in a certain human right, it is possible to define general rights, which merely include some environmental considerations, and specific environmental rights, established mainly for the protection of environmental issues.

2.1. General rights with environmental content

The main distinguishing feature of human rights in this category lies in the fact that, at the time of their establishment in international human rights instruments, they did not include environmental considerations. As was mentioned earlier, international environmental law is a relatively new field of law, while human rights protection has a very long history. Accordingly, a number of international human rights instruments, including the 1948 Universal Declaration of Human Rights, were adopted long before the Stockholm Conference on the Human Environment took place, establishing the first soft law instrument in the field of environmental law in 1972. Therefore, the constant evolution and expansion of the scope of human rights protection led to the introduction of environmental considerations as constituent parts of such general rights.

The expansion of the scope of human rights provisions is mainly achieved by the interpretation of their scope by international human rights courts or quasi-judicial institutions (including the ECtHR and the Inter-American Commission of Human Rights), or by separate international bodies established under the aegis of the UN (such as the Human Rights Committee).

Examples of such general rights include the abovementioned cultural rights, rights to health, life, and private and family life, rights to a fair trial, participation in decision-making, property, and an adequate standard of living, and the right to freedom of expression (in particular, the right to access to information).

However, because of the constant evolution of both fields under consideration and the increasing focus on the importance of environmental preservation, the number of such general rights will almost certainly be expanded.

Regarding cultural rights with environmental content, Article 27 of the International Covenant on Civil and Political Rights established the obligation of Member States to ensure the enjoyment by different ethnic groups of their own cultures.[16] At first sight, it is almost impossible to find environmental considerations within these provisions; however, the Human Rights Committee, in its General Comment regarding the protection of Minorities, expressly stated that there is a link between certain groups of people (for example, the representatives of minorities, or tribal or indigenous peoples) and their habitats, including traditional land, resources, and the overall environmental conditions with which they are familiar. The Committee also recognized this link as a separate object for which protection may be invoked.[17] The problematic issue in this respect is the absence of the institute of collective complaints in a number of international human rights courts or quasi-court institutions. The analysis of the decisions of the Human Rights Committee shows that it is possible to distinguish two types of approaches exercised by different international human rights institutions:

1) the extent of the impact of environmental degradation on human health;
2) the extent of the impact of environmental degradation solely on cultural rights.[18]

Therefore, even apart from their open-ended nature, the level of environmental considerations within just one category of human rights may also vary depending on the approach that was established in a certain institution.

16 "International Covenant on Civil and Political Rights", adopted 16 December 1966 adopted by General Assembly resolution 2200A (XXI), Article 27, https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights.

17 "General Comment of Human Rights Committee No. 23: Protection of Minorities", adopted 4 August 1994, CCPR/C/ 21/Rev.1/Add.5, Article 27, para. 3.2

18 Dupuy and Viñuales, *supra note*, 3: 368.

In addition to the International Covenant on Civil and Political rights, cultural rights are explicitly protected by the following provisions of international human rights instruments:

- Article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- Articles 30–31 of the Convention on the Rights of the Child (CRC);
- Article 30 of the Convention on the Rights of Persons with Disabilities (CRPD);
- Article 22 of the African Charter on Human and Peoples' Rights (ACHPR).

Thus, in spite of the fact that the link between cultural rights and environmental considerations is not obvious, there is a close connection between them that has already been recognized at the international level.

The clearest example of incorporating environmental considerations into the right to private and family life can be seen in the case law of the ECtHR. In particular, the case of *Lopez Ostra v. Spain* is sometimes referred to as a landmark case because it saw the Court completely change its approach. Although it had previously resolved such disputes in favor of the public interest, here the Court began to take into account the environmental interests of individuals, which prevailed according to the Court. In this case, a treatment plant for liquid and solid waste was built approximately 20 meters from the applicant's home. It began its operation even before the licensing procedure had been completed, and on first use it released a significant amount of noxious substances, immediately leading to health problems for the people who lived nearby, including the family of the applicant.[19] However, even after this malfunction had been rectified, it was recognized that the plant continued to emit a certain amount of harmful substances, which prevented the applicant from the full enjoyment of their right to private

19 "Case Lopez Ostra v. Spain, Application no. 16798/90", ECtHR, adopted 09 December 1994, paragraphs 7-9, https://hudoc.echr.coe.int/ukr?i=001-57905.

and family life. Subsequently, the Court found the violation of Article 8 of the European Convention on Human Rights (ECHR).

The right to health is one of the fundamental human rights, and it is closely connected to a good-quality environment as the adverse influence on human health caused by the degradation of the environment has repeatedly been recognized by the international community. The explicit protection of the right to health is provided by the following instruments:

- Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- Article 24 of the Convention on the Rights of the Child (CRC);
- Article 25 of the Convention on the Rights of Persons with Disabilities (CRPD);
- Article 16 of the African Charter on Human and Peoples' Rights (ACHPR).

Along with the explicit protection of this right, there is also the possibility of implied protection, which may be achieved by invoking other provisions of human rights instruments. For instance, in *Lopez Ostra v. Spain*, the applicant alleged the violation of their right to private and family life, which is protected by Article 8 of the ECHR. However, in this case the court defined health as a separate issue, stating that even though there was a negative impact on the applicant's right to private and family life, the operation of the plant did not possess a significant threat to their health.[20]

2.2. Specific environmental rights

The main objective of specific environmental rights is the protection of environmental considerations themselves, while primarily taking into account human needs. This shows the predominance of the human-centered approach, which poses certain limitations to the protection of purely environmental

20 "Case Lopez Ostra v. Spain", *supra note*, 19: paragraph 51.

considerations. Thus, in the field of human rights law, the environment is in most cases regarded as a condition of the enjoyment of human rights, and not as a separate object of protection.

Specific environmental rights may be divided into substantive and procedural rights. Substantive rights include the right to an environment of a certain quality and the right to water and sanitation, while procedural rights encompass the right to environmental information, the right to participate in decision-making, and the right to access to justice in environmental matters.

The right to an environment of a certain quality is receiving increasing recognition around the world, and already has wide recognition in domestic legislation as more than 150 UN Member States have included it in their national laws. Moreover, this right has been prescribed in several regional instruments – namely, Article 24 of the African Charter on Human and Peoples' Rights, Article 11(1) of the San Salvador Protocol, and Article 28(f) of the ASEAN Declaration. It must be stated that on 8 October, 2021, the UN Human Rights Council adopted a Resolution on the human right to a clean, healthy, and sustainable environment, which: "*Recognizes* the right to a clean, healthy and sustainable environment as a human right that is important for the enjoyment of human rights."[21] This Resolution requires states to take necessary measures to ensure the enjoyment of this right, including the full implementation of international environmental agreements, and invites the UN General Assembly to consider this matter.

In turn, the right to water and sanitation is recognized to a varying degree both internationally and domestically. This right does not form part of original international bills of rights such as the ECHR, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, etc. Therefore, the protection of this rights occurs due to the application of general

21 "The human right to a clean, healthy and sustainable environment", resolution adopted by the Human Rights Council on 8 October 2021, p. 3.

rules on the interpretation of treaties by international human rights institutions, and is usually read as part of the rights to life, health, an adequate standard of living, or food. Such an application highlights the progressive character of human rights provisions.

The crucial importance of this right was emphasized by the Committee on the European Charter on Water Resources, which observed that "Water is a commodity with a social value, one that is necessary for meeting the basic needs of every human being."[22]

Regarding court practice, in the case of *Hudorovič and Others v. Slovenia*, the ECtHR considered an alleged lack of drinking water and sanitation in conjunction with Articles 8, 3, and 14 of the ECHR, established for the protection of the right to private and family life, the prohibition of torture, and the prohibition of any form of discrimination, respectively.

The right to water and sanitation is also protected by Article 52 of the Convention on the Rights of the Child, a number of United Nations and European Union instruments, as well as the domestic legislation of different states.[23]

As for the triad of procedural environmental rights – the right to participate in decision-making, to a fair trial (in particular, access to justice), and to freedom of expression (namely, the right of access to information) – they should be considered together as they constitute the three pillars of the Aarhus Convention. This Convention established minimum requirements in relation to the following issues which constitute three clusters of environmental procedural rights:

I. access to information on environmental matters (both passive and active);
II. public participation in decision-making processes;

22 "Recommendation Rec(2001)14 of the Committee of Ministers on the European Charter on Water Resources", adopted on 17 October 2001.

23 "Case of Hudorovič and Others v. Slovenia, Applications nos. 24816/14 and 25140/14", adopted 07 September 2020, https://hudoc.echr.coe.int/fre%23_ftn1?i=001-201646.

III. access to justice in environmental issues.[24]

Access to justice as a constituent part of the right to a fair trial is protected by Article 6 of the ECHR; access of information is a component of the freedom of expression prescribed in Article 10 of the Convention; while public participation in decision-making is a generally acknowledged principle which may be regarded as a political right.

The Aarhus Convention – or the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters – was adopted under the aegis of the United Nations Economic Commission for Europe (UNECE) in 1998. The adoption of this Convention was an important step, as it not only established issues of public participation in environmental matters, but also linked environmental rights with human rights, recognized the obligation to preserve the environment for future generations (the principle of inter-generational equality), set out the responsibility of States to ensure environmental protection, and emphasized that sustainable development can be achieved only through the involvement of all stakeholders.

Conclusions

The question of the interconnection between the protection of human rights and the environment is a very complicated and interesting topic for discussion, but there remains no unified approach. The interaction between these two areas of law is constantly increasing due to the existing obligations of States parties to international human rights treaties, the constant development of case-law by international human rights judicial bodies such as the ECtHR, and the rising number of pending cases with environmental content in domestic courts.

Therefore, contemporary discussions regarding the relationship between

24 UNECE, "Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters" (Aarhus Convention) of 25 June 1998, Article 1, https://unece.org/DAM/env/pp/documents/cep43e.pdf.

human rights protection and environmental considerations are characterized by very close interrelation, revealing a dynamic interaction in which common interests and areas of regulation coexist with moments of conflict. However, this is more often described as synergy, highlighting the presence of shared objectives and the need for these two interests to reinforce each other.

On the other hand, the parallel development of these two areas of law adds to the complexity of the issue. As the field of human rights is in a state of constant development and evolution, the human rights themselves are subject to a large number of challenges brought about by changes in the economic, social, and technological areas. In this context, it is worth noting that some human rights serve as tools for the protection of the environment.

The degradation of the environment has a negative influence on human health and on the possibility for the full enjoyment of the human rights and freedoms protected by human rights instruments. This means that there is an urgent need to include environmental considerations in the relevant human rights provisions and to ensure the better protection of the environment.

The peculiarity of environmental challenges lies in the fact that they usually have a global character, so as a rule they cannot be resolved by a separate state, instead requiring the full participation of countries worldwide. This feature shows that the protection of the environment has to be achieved on the international level, and it is vital to provide individuals with accessible means of environmental protection.

Even though environmental law does not have a longstanding history, the importance of ensuring a sufficient level of environmental quality is now regarded as one of the main objectives of the international community. Such a right was already recognized by the human rights bodies within the United Nations system in the recent Resolution establishing the right to a clean, healthy, and sustainable environment, which shows the probability of its incorporation into the texts of

the numerous instruments of human rights law.

Human rights with environmental considerations can be divided into general rights and specific environmental rights, with the subsequent division of both categories into substantive and procedural. General rights include the right to life, health, food, water, sanitation, adequate living standards, and the right to enjoy one's culture, including the right to private and family life. On the other hand, specific environmental rights include the right to an environment of a certain quality, the right to water and sanitation, and the triad of procedural environmental rights established by the Aarhus Convention. However, it is impossible to classify environmental rights into a separate category, as they encompass all categories of human rights.

Regarding the correlation between the protection of human rights and environmental protection, it is also worth noting that there are three approaches in relation to the link between the protection of human rights and environment, emphasizing the inseparable interaction between them:

1. the environment may be regarded as a condition for the enjoyment of human rights;
2. human rights may be seen as tools for environmental protection;
3. human rights are also considered as one of the components of sustainable development.

All of these approaches confirm that the relationship between these two categories is very close, thus emphasizing the existence of synergy between them. A problematic issue in the context of their interconnection has been the reluctance of human rights judicial institutions to incorporate the environmental considerations of separate individuals, where in the past courts were likely to resolve such disputes in favor of the public interest. However, the practice of the ECtHR, especially in the landmark case of *Lopez Ostra v. Spain*, shows that in cases with environmental considerations courts have begun to shift their focus towards taking

into account not only the public interest, but also the environmental interests of individuals, as prevailed in this case. The reason underlying such a shift may be explained by the fact that environmental problems are usually of a global nature; therefore, they may carry a threat to the whole of mankind, and so there is a pressing social need to ensure the protection of the environment. Thus, it is extremely important to guarantee an environment of sufficient quality in the life of every individual, which will allow the full realization of human rights and freedoms to be ensured. As a result, despite the existence of certain conflicts between human rights protection and environmental protection, the relationship between the two would be more appropriately described as synergistic.

It is therefore the author's view that there is a need to enhance the level of interaction between these two fields of international law and to ensure their maximum harmonization. Despite the fact that the human rights framework is often regarded as separate from the protection of the environment, human rights have a dominant position when it comes to environmental considerations. Thus, there is a need to require international human rights institutions to take environmental considerations into account as a prerequisite for the realization of human rights.

Moreover, there is a need for the establishment of an institution for collective claims in the field of environmental law due to the indivisible nature of their subject matter, i.e., the environment itself. This is because in most cases the negative influence of environmental problems has an impact on certain territories or groups of people, rather than on a certain individual. Such a recommendation may also be relevant for the protection of the cultural rights of tribal or indigenous peoples.

ŽMOGAUS TEISIŲ IR APLINKOS APSAUGOS SANTYKIS

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Santrauka. Pasaulyje vis dažniau kalbama apie aplinkosaugos iššūkius, su kuriais susiduria visuomenė, todėl sudėtingas žmogaus teisių ir aplinkosaugos santykis tapo kertiniu ir kompleksišku klausimu.

Pripažinus, kad žmonių gerovė yra neatsiejama nuo jų sveikatos, o vėliau ir nuo aplinkos kokybės ir jos tvarumo, kilo daug diskusijų, kuriose nagrinėjama šių dviejų klausimų sinergija ir konfliktai. Šis ryšys plėtojamas remiantis tarptautine teisine sistema, kuri nuolat keičiasi, tačiau joje pabrėžiamas neatidėliotinas poreikis spręsti esamas grėsmes aplinkai ir progresyvų bei teleologinį žmogaus teisių nuostatų aiškinimą dėl jų pritaikymo ekonominiams, technologiniams, socialiniams ir kitiems galimiems pasaulio pokyčiams. Šių dviejų sričių santykio klausimas įdomus ir dėl to, kad, nors tarptautinė aplinkosaugos teisė atsirado palyginti neseniai, aplinkosaugos teisių apsauga tampa vis svarbesnė šalia seniai egzistuojančios žmogaus teisių apsaugos istorijos. Šios diskusijos pagrindą sudaro tai, kad aplinkosaugos aspektų traktavime įvyko poslinkis nuo grynai į žmogų orientuoto požiūrio į būtinybės saugoti aplinką *per se* pripažinimą. Straipsnyje analizuojama žmogaus teisių apsaugos ir aplinkos apsaugos sąsaja gilinantis į besikeičiančią tarptautinę sistemą ir į tai, kaip tarptautiniai žmogaus teisių dokumentai buvo pritaikyti siekiant spręsti tarpusavyje susijusias problemas, kylančias dėl aplinkos būklės blogėjimo. Taip pat siekiama atskleisti įvairius šio ryšio aspektus nušviečiant tiek bendradarbiavimo galimybes, tiek galimus ir esamus konfliktus, kylančius dėl siekio apsaugoti aplinką ir žmogaus teises.

Reikšminiai žodžiai: žmogaus teisės; aplinka; aplinkos apsauga; sąsajos reikalavimas; darnus vystymasis.

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