

Exploring the Right to a Healthy Environment: Dimensions and Concerns

Poonam Kanwal

Associate Professor, Department of Political Science, Janki Devi Memorial College, University of Delhi

DOI: 10.46609/IJSSER.2024.v09i12.006 URL: <https://doi.org/10.46609/IJSSER.2024.v09i12.006>

Received: 23 November 2024 / Accepted: 15 December 2024 / Published: 20 December 2024

ABSTRACT

The Universal Declaration of Human Rights (UDHR, 1948) and the two key covenants, the International Covenant on Civil and Political Rights (ICCPR, 1966) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR, 1966)—which together form the International Bill of Human Rights does not explicitly recognize the right to a healthy environment as a standalone human right. Formal recognition of this right began with the Stockholm Conference on the Human Environment (1972), marking the first global acknowledgment of environmental rights and catalyzing its emergence within "third-generation" rights. These are collective rights that emphasize solidarity and require cooperative action among nations and communities for meaningful implementation. As global environmental challenges intensified, awareness of environmental rights has expanded at international, regional, and national levels.

In the shift toward constitutional democracy, many countries have embedded the right to a healthy environment in their constitutions or established legislative frameworks to protect it. This constitutional or legislative recognition represents a transformative approach, reorienting legal systems to prioritize environmental sustainability. Such measures can strengthen environmental regulations, improve government accountability, expand public access to information, foster public engagement, improve access to justice, and reduce environmental inequalities.

The "right to a healthy environment" has multiple dimensions. While it is classified as a third-generation right, it straddles with elements of first- and second-generation rights. The right to a healthy environment is both a moral and a legal right, a procedural and substantive right, a positive as well as a negative right, and a collective and individual right. This article delineates multiple dimensions of the right to a healthy environment. It also captures some of the important criticisms leveled against it.

Keywords: Human Rights, third-generation rights, UDHR, Vague, Imprecise, Anthropocentric, Procedural, Substantive, Negative, Positive rights. Legal, Moral, Redundant, Anthropocentric, and Unenforceable.

I. Human Rights

Human rights and International law

Human Rights are fundamental and belong to everyone equally. The International Human Rights Law (IHRL) developed by the United Nations, applies universally to all individuals regardless of their nationality, social class, race, religion, culture, or gender.

The rise of Fascism and Nazism, World War II, the Holocaust, widespread starvation, disease, civilian deaths, and atrocities committed between warring alliances played a pivotal role in initiating the project of human rights. These events underscored the need for an international framework to safeguard human dignity. Before this period, international law primarily focused on issues such as territorial sovereignty, maritime laws, state jurisdiction, and disputes between states, with little attention given to the rights and dignity of individuals. Those suffering violations had limited recourse, especially when abuses were inflicted by their governments.

The Universal Declaration of Human Rights (UDHR), adopted in 1948, is the first document in history to establish fundamental rights and freedoms that should be universally upheld. As a set of standards aimed at achieving human rights for all people in every nation, it represents a definitive statement on how individuals should be treated everywhere and at all times. However, since the UDHR was a declaration without legal enforceability, there was a recognized need to embed these rights into international law. This led to the creation of two significant treaties in 1966: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Together, the UDHR, ICCPR, and ICESCR form the International Bill of Human Rights, providing a foundational structure for human rights globally.

In the early modern period, slaves, women, children, colonized peoples, and the impoverished were excluded from the ambit of human rights. (Baxi, U. 1998). In contrast, contemporary human rights discourse is inclusive, embracing all people within its scope. (Ibid.) Modern human rights recognize the individual as a whole, acknowledging diverse needs and complex emotions. Today, individuals are endowed with a wide range of rights—civil, political, social, economic, cultural, group, and solidarity rights—reflecting a more comprehensive approach to human dignity. The scope of human rights continues to expand (Ibid.).

The concept

Human rights are granted to individuals simply by being human. Theorists hold that human rights are not merely legal constructs but are grounded in fundamental ethical values that apply universally. John Locke gave the theory of natural rights holding that the right to life, liberty, and property are fundamental, inalienable, and inherent rights of human beings. Immanuel Kant emphasized human dignity and autonomy and argued that all individuals have an inherent worth and “should be treated as an end in themselves and not as a means to an end.” He argued in defense of “categorical imperatives,” commands that one must follow regardless of one’s interests or desires. They are like moral obligations that apply universally, derived from pure reason rather than religion. Kant laid the foundation of the moral theory of rights.

Dworkin, (1978) describes rights as "trumps" over collective goals or utilitarian considerations, meaning that certain fundamental rights cannot be overridden simply because doing so benefits a larger group. According to Dworkin, rights are moral claims that must be respected, even when the majority thinks otherwise. Central to Dworkin’s theory is that every individual has the right to be treated with equal concern and respect by their government.

Griffin, (2008) argues that human rights are grounded in the moral nature of human beings, specifically in the concept of personhood and agency, which he calls "normative agency". Normative agency refers to the capacity of individuals to form and pursue a conception of a life. Human rights protect this normative agency. Donnelly (2013) argues that “human rights are needed not for life but for a life of dignity, a life worthy of a human being.” Similarly, Gewirth (1982) argues that human rights are necessary conditions for individuals to act as rational agents. Cranston (1962) argues that human rights are universal moral entitlements that apply to all individuals simply because they are human. Human beings enjoy these rights at all times and in all places because the fundamental nature of human beings is the same everywhere.

Three key aspects of human rights can be identified from the concept of human rights. Human rights are universal, they are grounded in morality, and their primary aim is to uphold the dignity of all individuals.

Classification

Some scholars like Karel Vasak, classify human rights into three categories or generations. The “first generation” comprises basic civil and political rights. These rights are recognized in international law through the International Covenant on Civil and Political Rights and are enshrined in nearly all national constitutions. These rights include -the right to life (article 6), the right to vote (article 25), freedom of speech (article 9), freedom of thought, conscience, and

religion (article 18), prohibition of torture, cruelty, inhuman treatment, or degrading treatment (article 7), prohibition of slavery (article 8), (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>).

The “second generation” includes social, economic, and cultural rights. These rights are acknowledged in international law through the International Covenant on Economic, Social, and Cultural Rights. They include rights such as the right to work (article 6), the right of everyone to the enjoyment of just and favorable conditions of work (article 7), the right to form and join trade unions (article 8), the right to social security (article 9), the right adequate standard of living (article 11), the right to physical and mental health (article 12), (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>) These rights are not as embedded in national constitutions as civil and political rights).

The “third generation” is often called “solidarity rights” or “group rights.” They encompass rights related to “peace, development, and a healthy environment.” The international community sees these rights as a response to evolving global circumstances and needs. These rights require cooperative action and solidarity among nations and groups for effective implementation. There is no specific treaty for these rights. The concept of “third generation” rights was formally introduced in the United Nations with the adoption of the “Declaration on the Right to Development” in 1986, which emphasized that every individual has the right to engage in, contribute to, and benefit from economic, social, cultural, and political development. Though generally considered essential for advancing human dignity and well-being, third-generation rights have sparked controversies.

The recognition of third-generation rights has found limited support among human rights lawyers. They argue that third-generation rights dilute the core concern of human rights and divert attention from the essential goal of securing civil, political, economic, and social rights. (Alston, 2001). Third-generation rights are often described as vague, imprecise, and lack clear legal definition. Cranston (1962) argued that human rights must be practical and enforceable. He questioned whether third-generation rights, meet the basic requirements of human rights—that is, the ability to be universally upheld by governments. Similarly, Donnelly (2013) argues that while the third-generation rights are morally compelling, they are aspirational. They lack the institutional framework required for enforcement. Thus lack of clarity, precision, vagueness, and abstractness come in the way of realizing third-generation rights.

II. Recognizing the Right to a Healthy Environment

The key human rights instruments—the UDHR, ICCPR, and ICESCR, are silent on the “right to a healthy environment.” This right, unlike others, is not distinctly recognized. These instruments were crafted in response to specific historical injustices of their time, and the drafters of the UDHR, ICCPR, and ICESCR did not anticipate the environmental crisis becoming a pressing issue requiring global, national, and local attention. (Boyd, D. R. 2012) Society's awareness of the scale and impact of environmental degradation was still limited (Ibid.)

The Stockholm Conference, formally known as the United Nations Conference on the Human Environment, held in 1972, was the first international gathering that focused on the human environment. But what prompted the need for such a conference? Concerns about the environment had already begun to surface well before the mid-20th century, as people started recognizing the impact of human activities on the natural world.

In *The Land Ethic*, Leopold (1949), argued that ethical responsibility should not be limited to humans but must also extend to the natural world. He believed recognizing our moral duty toward nature is an "ecological necessity." (Kanwal, P, 2023) Leopold broadened the concept of the moral community to include not just humans, but all elements of the Earth (Ibid.)—soils, waters, plants, and animals —what he collectively referred to as "the land" (Ibid.) He stated, "A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise" (Leopold, 1949)

Carson in *The Silent Spring* (1962) brought to public attention the dangers of indiscriminate pesticide use, particularly DDT. Carson, a marine biologist and writer, argued that these chemicals were not only harming wildlife but also entering the human food chain, posing significant risks to human health. The book- *The Silent Spring* launched the modern environmental movement and simplified the issues inviting public concern and action. This brought significant policy changes including the ban of DDT in the United States. Carson's work highlighted the interconnectedness of ecosystems and the unintended consequences of human actions on the environment. Rachael Carson was the 1st person to demand a “right to a healthy environment.” She said that it “ought to be one of the basic human rights.”

In 1968, Hardin brought environmental ethics to the forefront by arguing that we live in a finite biophysical world and that "a finite world can support only a finite population." His ideas echoed those of Thomas Malthus, who in 1798 warned that population growth would eventually surpass food production, leading to famine (Kanwal, P, 2023). While Malthus’s critics argued that technological advancements have thus far prevented such crises and will continue to do so, Hardin, in his essay "The Tragedy of the Commons," challenged this optimism. He asserted that

technology offers only temporary solutions; while it may support population growth in the short term, it ultimately accelerates resource depletion. (Ibid.)

Paul Ehrlich a biologist, highlighted the catastrophic consequences of overpopulation in his book *“The Population Bomb (1968)”*. He argued that the world’s rapidly growing population if not curbed would lead to famine, environmental degradation, and societal collapse. Ehrlich advocated government-mandated population control policy and changes in consumption patterns to reduce the pressure on global resources, particularly in the US (Ehrlich, 1971). Although Ehrlich succeeded in bringing awareness about the potential hazards of population growth, his predictions could not hold on due to the success of Green Revolution strategies which helped in increasing food production. However, his book occupies an important place for raising concerns about population growth and its environmental impact, and influencing public policy decisions.

The *“Limits to Growth”* was published by the Club of Rome (a global think tank) in 1972. The report resulted from a study led by Donella Meadows and a team of scientists at the Massachusetts Institute of Technology. The study explored the long-term consequences of population growth and economic growth in a World with finite resources.

The 1960s was also a period of deep thinking and soul-searching in the Western affluent nations about the increasing dominance of materialist values. People had begun to question the ascendancy of materialistic, consumerist lifestyles and throw-away culture. They were looking to lead a life in harmony with nature. This was the phase of post-materialism and new social movements in the western countries.

The 1972 Stockholm Conference was convened in response to increasing global concern over environmental degradation, pollution, and the unsustainable use of natural resources. The conference brought environmental issues to the forefront of global and national political agendas. It emphasized that environmental threats were not solely scientific or technical concerns but political challenges that required collective action. The conference stressed the need to create new political institutions, as existing ones were inadequate to address the ecological impacts of human activities. The United Nations Environment Programme (UNEP) and the principles for sustainable development were laid out by the conference thus setting the foundations for global environmental governance.

The Right to a healthy environment was formally recognized by the Stockholm Declaration (1972). Principle 1 of the declaration reads: “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, and he bears a solemn responsibility to protect and improve the environment for present and future generations (Report of the United Nations Conference on the Human

Environment, (<https://documents.un.org/doc/>). **Principle 2** reads: “The natural resources of the earth including the air, water, land, flora and fauna and especially representative samples of natural ecosystems must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate” (Ibid.).

III. Key Aspects of Human Rights and the Right to a Healthy Environment

Before exploring the various dimensions of the right to a healthy environment, it is essential to address whether this right qualifies to be called a human right. Three key aspects of human rights that stand out (discussed in the section on human rights) are: that they are universal, grounded in moral principles, and aimed primarily at upholding the dignity of all individuals. The right to a healthy environment fulfills each of these criteria. (Boyd, D. R, 2012)

The right to a healthy environment is universal. Environmental issues like global warming, climate change, deforestation, ozone layer depletion, air pollution, and the spread of diseases and viruses transcend national borders. Environmental degradation in one region has far-reaching effects on other parts of the world, making environmental issues a matter of global concern and shared responsibility.

A range of international conventions and agreements highlight this collective concern commitment. Such as- The United Nations Framework Convention on Climate Change (UNFCCC) (1992), the Kyoto Protocol (1997), the Paris Agreement (2015), the Convention on Biological Diversity (1992), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (1973), the Ramsar Convention on Wetlands (1971), and the Basel Convention on Hazardous Wastes (1989). Together, these agreements underscore that environmental protection is a universal issue, a global concern, and a priority for all nations. The international agreements and commitments are also supported by regional agreements like African Charter on Human and People’s Rights. Besides international and regional concerns, many nations have codified the right to a healthy environment in their constitutions or adopted legislative measures to protect it, (Boyd, D. R, 2012), highlighting its universal significance and reinforcing its status as a fundamental human right.

The right to a healthy environment is fundamentally a moral right. Every person deserves to live in conditions that support their well-being and dignity, free from pollution, contamination, and environmental degradation. Such conditions are crucial to human survival, and dignity and well being. Environmental conditions directly affect human life. They are a prerequisite to other rights of human beings such as the right to life and health. (Nickel, 1987). Similarly, Shue, (1996) links environmental rights to basic subsistence needs emphasizing that environmental

degradation such as pollution, and deforestation undermines people's ability to secure food, water, and shelter.

From an ethical perspective, it is also crucial to protect the environment for future generations, (as recognizing this right upholds our responsibility to them. Morally, the right to a healthy environment also promotes "justice and equity." Environmental harm or degradation disproportionately affects people, groups, and communities. The marginalized groups who have contributed the least and have little say are more vulnerable to environmental harm and degradation. Recognizing this right affirms that all people have an equal right to clean air, water, and living conditions regardless of their status.

IV. Multiple Facets of the Right to a Healthy Environment

The right to a healthy environment has multiple facets. While it is classified as a third-generation right, it straddles with elements of first- and second-generation rights. The right to the environment is both a moral and a legal right, a procedural and substantive right, a positive and a negative right, and a collective and an individual right. These layers make the concept of the right to a healthy environment rich in meaning but also complex. This part of the article explores the multiple facets of the "right to a healthy environment."

Third-generation rights straddle with elements of first-generation and second-generation rights.

Although included in the third generation of rights, the right to a healthy environment actually straddles with all the categories or generations of rights (Boyle, A., 2007). Civil and political rights support the right to a healthy environment. Individuals, groups, and non-governmental organizations (NGOs) can use civil and political rights to give and access environmental information provide judicial remedies, and help people to engage in political processes. These rights enable participation in environmental decision-making and require the government to uphold minimum standards to protect life and property from environmental harm. (Leib, L, H., 2011).

The "right to a healthy environment" straddles with the economic and social rights whose progressive realization is promoted by the International Covenant on Economic, Social, and Cultural Rights (Boyle, A., 2007). This view treats the environment as a value to be secured. However, the international supervisory mechanisms are weak to enforce these rights. As a third-generation right the right to a healthy environment holds that the environment is a shared social space, which demands collective action and implementation on the part of the nation-states for sustainable life.

Legal right and a moral right

The “right to a healthy environment” is both a moral and a legal right. Moral right- As a moral right the right to a healthy environment is rooted in the idea that all individuals deserve conditions that allow them to live with dignity, health, and well-being. This perspective emphasizes that, morally, governments and societies have an obligation to protect the environment (Taylor, 2019, Op.cit.) to safeguard these conditions for present and future generations. In many cases, the moral nature of the right to a healthy environment has influenced the legal codification of this right. When the moral nature of these rights is legally recognized it takes the form of legal rights.

Legal Right: In many jurisdictions, the right to a healthy environment has been enshrined in national constitutions, legislation, or international treaties, making it a legally enforceable right. For instance, over 100 countries recognize environmental rights in their constitutions (Boyd, D. R, 2012), allowing citizens to take legal action if their right to a healthy environment is violated. Global environmental UN’s conventions address nearly all major environmental issues, including climate change, ozone depletion, biodiversity loss, air and water pollution, the trade of hazardous substances, and the protection of endangered species, which reinforce the legal status of these issues in these contexts.

Thus, the “right to a healthy environment” has a dual status and this underscores its importance as both a legal commitment and a moral obligation globally.

A negative right and a positive right

The right to a healthy environment is understood as both a negative and a positive right. (Boyd, D. R, 2012). **Negative Right:** As a negative right, the “right to a healthy environment” requires that governments, corporations, and individuals refrain from actions that harm the environment (Taylor, 2019. Op.cit.). Right here is in the form of a duty of non-interference that is not to take action that may directly harm the environment upon which individuals rely. This would include preventing pollution, avoiding deforestation, and restricting practices that lead to environmental degradation.

Positive Right: As a positive right, the “right to a healthy environment” imposes obligations on governments and institutions to actively create and maintain conditions that support environmental health. This might involve enacting environmental protection laws, promoting sustainable development, ensuring access to clean air and water, and implementing initiatives to reduce climate change. As a positive right, it requires proactive steps to foster an environment that is safe and sustainable. This may necessitate the state to establish institutions that monitor, regulate, and take appropriate measures for a healthy environment (Taylor, 2019, Op.cit.).

Immediate and progressive realization

The “right to a healthy environment” is generally subject to progressive realization, although some elements may require immediate action. Progressive Realization: Environmental protection and sustainability take time to develop. Progressive realization means that governments and institutions may need time to fulfill the right to a healthy environment, often requiring phased plans, and capacity building to address complex environmental challenges. This is particularly true with low-income and developing countries or those which are heavily dependent upon industries producing Green House Gases.

Immediate Obligations: However, certain components of the “right to a healthy environment” may require immediate action. For instance, refraining from activities that cause severe environmental harm, providing access to information about environmental risks, and taking steps to prevent irreversible damage are often seen as urgent. Additionally, governments may have immediate obligations to respect and protect existing environmental protections, especially when human health or survival is at risk.

In essence, while the full realization of the right may be progressive, there are immediate responsibilities that states and actors are expected to uphold in ensuring a healthy environment.

Individual and collective right

The “right to a healthy environment, peace, and development” are often referred to as collective rights (Boyd, D. R, 2012). This classification has posed conceptual challenges since human rights have traditionally focused on individuals rather than groups. However, the right to a healthy environment seems to bridge this binary classification, encompassing both individual and collective dimensions.

Procedural and substantive right

The “right to a healthy environment” encompasses both *procedural* and *substantive* aspects: Procedural Aspect: The procedural dimensions of the right to a healthy environment involve the rights and mechanisms that enable individuals (Gellers. C. Joshua. (2017)), to participate in environmental decision-making. This includes rights such as access to environmental information, public participation in environmental policies, and access to justice in environmental matters (Leib, L, H., 2011). Procedural rights are essential for transparency, accountability, and empowering individuals to protect their environmental interests.

Substantive Aspect: The substantive dimension of the right focuses on the actual quality of the environment. It addresses the need for a safe, clean, and sustainable environment that supports

human health and well-being. Substantive rights aim to ensure tangible outcomes, such as clean air, safe drinking water, and the preservation of biodiversity, essential for a healthy life. In practice, both procedural and substantive aspects are interlinked; procedural rights often enable the enforcement and realization of substantive environmental standards.

V. Concerns

Vague

One of the common criticisms is that the “right to a healthy environment” is vague. There is uncertainty about what level of environmental quality is to be protected to safeguard human beings (Boyd, D. R, 2012). Kenneth Wolfe’s critique of environmental rights focuses on the limitations and enforceability challenges posed by framing a healthy environment as a human right. Wolfe argues that environmental rights, though well-intentioned, often lack specificity and are difficult to enforce uniformly across nations. This can lead to interpretive flexibility which will depend more on the resource availability and the cultural context. Lack of uniformity in interpreting the environmental standards will make these rights difficult to operationalize. (K. Wolfe, 2003)

Wolfe also emphasizes the potential conflicts between environmental rights and economic development. He suggests that prioritizing a healthy environment as a human right may impose restrictions on economic activities, especially in developing nations where industrial growth is essential for poverty reduction. Wolfe argues that a pragmatic, policy-driven approach to environmental protection may be more effective than embedding it as a human right, which could lead to issues with international enforcement and compliance. To summarise, Wolfe questions the feasibility of universal environmental rights without a clear mechanism for enforcing and balancing them against other priorities (K. Wolfe, 2003).

Alston (2001) a former UN Special Rapporteur on extreme poverty and human rights, has criticized the right to a healthy environment, especially in the context of climate change and its impact on global poverty. Alston is not opposed to environmental protections but expresses concern about the practical limitations of pinning one’s hope solely on human rights frameworks to address climate-related challenges. He argues that the “right to a healthy environment” is too broad and hard to enforce uniformly, particularly given the varying levels of responsibility and resources across countries. For instance, poorer countries that contribute the least to environmental degradation often face the greatest vulnerability to its impacts. Thus it is unjust to apply a common framework to all the countries frameworks without considering this disparity. Accountability and enforceability are central to Alston’s critique. He argues that while environmental laws may be codified in laws, the lack of strong enforcement mechanisms and

clear responsibilities for states and corporations can leave these rights unrealized. Alston argues that without enforcement mechanisms there is a risk of environmental rights becoming aspirational rather than actionable (Alston, 2001).

In summary, Alston's critique is based on his view that while the "right to a healthy environment" is necessary its realization requires more than just formal recognition. Instead, it demands practical, enforceable policies and a framework that takes into account inequalities in responsibility and capacity among countries.

Those speaking in defense of the right to a healthy environment point out that the right to a healthy environment is vague or uncertain like any other human right (Boyd, D. R, 2012). It is pointed out that human rights are dynamic, evolving with time and values. Now there are rights for Aboriginal women and other groups but years back they were denied basic human rights (Ibid.). The proponents of the right to a healthy environment also hold that the precise meaning and definition of the right emerge with time depending upon nation's social-economic, cultural, and political-legal context. The variability of implementation demands of the right to a healthy environment does not undermine the concept of the right (Kiss and D. Shelton, 2004).

Redundant

Critics argue that the "right to a healthy environment" is redundant because existing human rights protections already cover environmental concerns indirectly. They point out that rights such as the right to life, health, property, and access to information already imply a need for a safe and healthy environment (Shelton, 2002). According to this view, instead of creating a standalone "right to a healthy environment," governments should focus on strengthening the enforcement of existing rights, which already entail environmental protections as a prerequisite for their fulfillment.

Additionally, critics worry that recognizing a specific environmental right could create conflicts with other rights and lead to ambiguous legal standards (Stephen. T. J. 2009). They argue that it could lead to vagueness, as defining "healthy" can be subjective and influenced by different cultural or scientific interpretations. A focus on enforceable regulations or sustainable development goals might be more effective than creating a broad, standalone human right.

The supporters of the right argue that explicit recognition is necessary for environmental protection to be addressed otherwise it would leave communities without any legal course in case of environmental harm (Boyd, 2012; Knox, 2019). The debate continues, with each side concerned about how best to ensure both human rights and environmental protection.

Unenforceable

Critics argue that the “right to a healthy environment” is unenforceable or unjustifiable because it lacks clear standards. It is difficult to clearly define, measure, and apply in a legal context. Healthy environment is a vague term that can mean different things to different people depending upon geography, or cultural standards. For a right to be enforceable, it must be clearly defined, and objective.

Environmental harm affects large numbers of people on an indirect, long-term basis which makes it difficult to attribute specific harm to specific individuals and communities. In other human rights specific harm is often clear, whereas environmental harms tend to be widespread and are gradual. Critics argue that this makes it difficult to establish who is responsible and who has the standing to claim violation. Thus the collective and diffused nature of harm comes in the way of implementing this right.

Critics point out that environmental issues are scientific and complex issues, and the courts and judges may not have the expertise to make a fair judgment or deal with these issues. It is held that maintaining a healthy environment demands financial resources which the governments may find it difficult to allocate. It is also argued that the right to a healthy environment may lead to prioritizing environmental protection over other critical social and economic issues. This may lead to trade-offs for economic or social reasons. Thus the right to a healthy environment can lead to resource and policy constraints.

It is also pointed out that broad socio-economic goals such as public health or environmental quality are aspirational goals (Miller, 1998) rather than enforceable. Making the right to a healthy environment as an enforceable right could over-extend the role of courts and could turn the judges into environmental regulators which they believe should be the primary responsibility of the executive.

Advocates of the right to a healthy environment argue that the right to a healthy environment can act as a guiding principle even if it is not as straightforward as other rights to implement.

Anthropocentric Bias

The right to a healthy environment has faced criticism for its anthropocentric nature. Anthropocentrism places humans at the center of moral concern, attributing intrinsic value and moral status to humans as rational, conscious beings with autonomy. Within this framework, nature is secondary—an inert entity whose worth is derived from its utility to humans, often seen as a mere resource for fulfilling human needs and well-being.

In contrast, ecocentrism and biocentrism view nature as having intrinsic value, independent of its usefulness to humans. This perspective holds that, just as humans possess inherent worth, so do trees, forests, animals, rivers, and glaciers. According to this worldview, all entities on the planet Earth are interconnected with each other within a complex web-like structure that sustains life. Human existence, therefore, depends on maintaining harmonious relationships among these elements. Humans are not nature's masters; they do not own or control it. (Kanwal, 2023)

Ecologist Berry (1999, 2006, 2009) emphasized this in his statement, “Rights originate where existence originates.” He argued that rights are not contingent on moral status or consciousness but rather on the fact of existence itself, which is possible only through the dynamic interactions within Earth's community. Since humans and nature share the same origin—emerging from the same physical, chemical, and biological processes—nature, too, possesses rights by virtue of existence. If all components have the same source of origin then all components are bearers of rights.

American philosopher Christopher Stone advanced the early legal defense for granting rights to nature. In his article, “*Should Trees Have Standing? Towards Legal Rights for Natural Objects.*” Stone (1972) argued that there is no legal barrier to recognizing nature's rights. Just as corporations have been granted legal rights, so too could nature—including forests, rivers, and mountains—be given legal standing. Stone's argument is straightforward: if inanimate corporations can have rights, why shouldn't the living entities of the natural world? (Stone, C, 1972). Stone suggested that lawyers could represent nature's interests in the same way they advocate for corporations, states, and even individuals unable to speak for themselves. His idea gained further attention when US Supreme Court Justice William O. Douglas endorsed it in his dissenting opinion in *Sierra Club v. Morton*.

In “*The Rights of Nature: A History of Environmental Ethics*” Robert Nash traced the evolution of environmental law and ethics. He argued that just as slaves, women, and other marginalized groups have historically fought to be recognized as bearers of legal rights, so too should nature now be granted such recognition. (Nash, 1989)

Some nations have taken steps in this direction: Ecuador, Bolivia, and New Zealand have enshrined rights for nature within their legal frameworks. (Kanwal, P., 2023) Ecuador, for example, grants “Pachamama” (nature) the rights “to exist, persist, maintain, and regenerate its vital cycles, structures, functions, and evolutionary processes.” In 2017, New Zealand granted legal personhood to the Whanganui River, and in 2014, it designated Te Urewera (a natural landscape) as a legal entity. (Kanwal, 2023)

Despite these initiatives, the concept of rights for nature is still in its early stages, and its implementation faces significant challenges. Compliance remains a major issue, as countries like Ecuador and Bolivia struggle to bridge the gap between the philosophical discourse on nature's rights and practical enforcement. Furthermore, debates continue among scholars about how rights for nature should be defined and protected.

Should rights apply only to sentient beings, or should they extend to all living organisms? Should non-living elements of nature, like mountains, and rivers, also possess rights? Who would protect these rights—specifically appointed guardians, or any citizen acting on behalf of nature? Some argue that the very act of granting rights to nature may inadvertently reinforce anthropocentrism, as it is ultimately humans who define which entities should have rights and what these rights entail. These discussions are complex and largely philosophical. A holistic approach that acknowledges the interconnectedness of humans and nature, supporting the well-being of both, is essential for achieving a balanced perspective that respects the intrinsic value of the natural world.

Conclusion

The right to a healthy environment is multifaceted, with various interconnected dimensions. These dimensions should not be seen as binary opposites but as overlapping layers—moral and legal, negative and positive, procedural and substantive, individual and collective, immediate and progressively realized—that mutually reinforce each other and enrich the concept's meaning. All these facets come together to form a cohesive whole. To realize the right to a healthy environment adopting a comprehensive approach that integrates all these dimensions is essential.

Some of the concerns regarding the right are genuine but just like other rights have evolved with time, this right will also take a concrete shape.

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