



Human Right To Environment

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APA Citation:

Alubaidi, A.H., (2023), Human Right To Environment , *Journal of Language and Linguistic Studies*, 19(4), 181-196; 2023.

Submission Date: 24/09/2023

Acceptance Date: 23/12/2023

Abstract

It is not strange that the international and national efforts focus on human beings, the environment, and the relationship between them. Therefore, the starting point in protecting the environment is the recognition that humans have a right to exist in a livable environment: the human being has the right to enjoy a clean, sound, and balanced environment, and at the same time, he must refrain from doing anything that may result in damage to the components of the environment, refraining from harming the environment is a right and a duty towards the environment that is inseparable from everything related to environmental protection. The international documents concerned with protecting Human Rights (HRs) have paid attention to this right, whether at the international or national levels. This research aims to investigate some legal aspects of this right in terms of its definition, and characteristics, demonstrating its sources and its legal basis, as well as the persons who enjoy this right. These points contribute not only at the national level but also at the international level to exploring and revealing how to protect this right.

Keywords: Human rights, Environmental protection, Legal, International or national levels.

Introduction

Talking about the environment and its protection is no longer a secondary issue, whether by the international or national communities. Rather, it has become the focus of their attention since 1972 when the United Nations (UN) held the first global conference in Stockholm, in which the States began to sense the gravity of harm and dangers caused by human behavior to the environment, which threatens human survival. Although Allah (the Almighty) has created the environment, with its various fields, proper, healthy, and clean for the human being to enjoy, s/he, with his/her different activities, has brought about imbalance and harm to it. This indicates that human beings influence and are affected by the environment, meaning that there is a close and clear relationship between them. Therefore, it is not surprising that international and national efforts focus on this convergence, and therefore the starting point for various procedures and regulations that directly aim to preserve and protect the environment is the

recognition that humans have a right to the environment. One of the most important aspects of a person's right to the environment is the enjoyment of this right, which is to have an environment in which the elements of healthy life are integrated and to maintain his stay in good health, but at the same time should refrain from doing anything that might harm the environment as the right and duty towards the environment are inseparable. This signifies that the more there is balance between right and duty, the more the desired goal (i.e. providing a proper, healthy and clean environment in which human beings can live) is achieved.

The HRs to environment are related to the developments followed the worldwide recognition of HRs and his/her fundamental and desired freedoms, and the establishment of the International Human Rights Law (IHRL) which laid down, in explicit legal texts, the need for humans to enjoy many basic and always desired rights and freedoms that guarantee their dignity, most importantly their right to a healthy and sound environment.

Notwithstanding the multiplicity of researches and periodicals which have discussed the HR to the environment, there always remains a necessity to clearly highlight the various legal aspects of this right. Also, through which the legal procedures can be identified so as to protect that right at the national, local and international levels in light of the rapid, subsequent developments and efforts to protect the environment.

The problem of this research a raising a lot of questions related to the legal nature of this right. If this right, then, applies to the environment, is it conceivable that the environmental elements (for instance, water and air) can be a subject of this right? And what is the legal definition of this right and its characteristics? If there is an aspect of the jurisprudence that divides or classifies the HRs, under which of these divisions is this right listed? Perhaps this is linked to another question related to identifying the subjects who have this right as well as the procedures that enable them to demand this right.

This research focuses and aims on the legal aspects of HR to the environment by identifying its legal nature and distinctive characteristics to specify the different aspects of the HRs in terms of clarifying the subjects and sources of the right in addition to the procedures for protecting it at the national level inside the country and abroad at the international level.

Theoretical and Practical Significance of the Research:

The theoretical significance of the research is highlighting the legal aspects of the HR to environment. This is regarded as a contribution to exploring the concept of right. It provides researchers with an important legal reference that helps contribute to developing the studies involved. Practically speaking, it provides individuals and countries with the means and procedures concerned with protecting the environment from harm, which, in turn, results in health benefits for society. Furthermore, it contributes to stepping up and driving the development, progress, and advancement of society.

Research Methodology

The researcher depends on two integrated, scientific approaches: the descriptive approach and the analytical approach. The first studies, describes and interprets the phenomenon by specifying its characteristics and dimensions in order to reach an integrated, scientific description of protecting the HR to a proper, sound environment, whereas the latter analyzes the legal texts so as to investigate the extent to which they are adequate or inadequate, analyzes

the jurisprudential views, as well as gathering and analyzing information to reach the most effective method of dealing with the problem.

Research Plan: This research is divided into two main chapters:

Chapter One: Defining the HR to Environment and its Characteristics., Chapter Two: Protecting the HR to Environment, Results, Conclusion, and Recommendations.

Chapter One: Defining the Human Right to Environment and its Characteristics

Preface and Division: The human being cannot survive without:

- the availability of natural air to breathe;
- the availability of clean water to drink, and;
- the availability of arable land that provides him/her with food.

These three elements necessary for the continuity of life are the issues related to the environment in general. If we carefully consider these elements, we will find that they are closely related to HR. On the other hand, it is difficult to separate between the good environment elements, the human necessities and his/her right to a decent life that preserves his/her humanity, safeguards his/her rights, protects his/her dignity and ensures his/her needs as a human being. With the rise in awareness of the importance of an environment in which the elements of healthy living are available as a necessary and basic condition for the continuation of life, the reasons for linking between the HRs and the environment becomes more and more apparent. This goes back to the beginning of the 1970s when the UN held a conference in Stockholm in June, 1972 about the environment, which marked the beginning of placing the environmental issue at the forefront of contemporary human issues. This is the first time that the first principle of this declaration stressed the HR to the environment. It explicitly states that "[the human being] has the fundamental right to freedom, equality and adequate living conditions, in an environment of a quality that allows him to live a dignified and prosperous life".

By analyzing this principle, we find that it reveals that HRs have three main dimensions are the right to freedom, equality, and environmental protection. If the HRs are, in principle, indivisible, that is, the human's enjoyment of some of his/her rights neither negates nor replaces the realization of other rights as s/he needs full rights, this implies that the HRs in protecting the environment is essential for him/her to enjoy and realize the other rights necessary for his/her life.

There is a continuous interaction between human life and the environment around him, which means that there is a close relationship between them, which is considered a necessary introduction to defining HR to the environment. Accordingly, it was necessary to research the definition of this right and consider its characteristics. This can be done through the following division: section one: Defining Human Rights to Environment and its Characteristics and section two: Corresponding Obligations to Human Right to the Environment.

Section One: Defining Human Right to Environment and its Characteristics

HRs have faced some criticism, the most important of which is its denial of the status of a right in its legal sense, which leads to depriving it of the necessary protection that these rights must enjoy. Likewise, the HR to the environment has also raised many criticisms and

discussions due to the legal nature of the HR to environmental components such as air and water, which humans may not own or monopolize (Kris (A.CH.) 1968; Despax 1960; Gills 1988; Dr. Mustafa et al., 1990)

In light of the above, these two essential issues are addressed and investigated to identify in detail and clearly the meaning and definition of HR to the environment, in addition to its characteristics.

1st: The Extent to Which HRs Have the Legal Nature of Rights:

Those who deny the legal nature of the right to HRs believe that the idea that the right-holder has the power and authority to demand that others do or abstain from doing an action as to his right does not exist with regard to the HRs to environment. This confirms that this right lacks the legal nature of rights (Jack Donnelly, 1998)

Another group criticizes the aforementioned opinion since it is based on the application of the concept of right in the Private Law on the HRs in the contemporary Public International Law for two reasons:

1. The relationships expressed by HRs (between the individual and the state) are not the same ones expressed within the framework of the Private Law (between individuals); what is important here is showing the State obligations, not classifying rights.
2. Searching for the legal nature of HRs should be performed within the framework of the International Law.

These jurists view that HRs were not originally legal rights, which was expressed by the jurists Locke and Rousseau. They maintain that these rights merely fell within the scope of the ideals. Then, they were entered into the circle of legal rights when the public authority recognized them at the national level inside the country and abroad at the international level through the enactment of these rights in the national legislations and the international legal documents.

Whatever the case might be, we agree with the latter opinion as it is difficult today it is difficult to deny or overlook the legal nature of HRs with the contemporary developments that followed and affected HRs. However, there remains an important question to be raised here: can the human being demand for the HRs s/he enjoys? Answering this question in the affirmative encounters two obstacles:

1. The lack of accuracy in defining and identifying the corresponding obligations to HRs without which it is difficult, or rather impossible, to determine whether the right has been violated or not.
2. The lack of the litigation/adjudication and redress institutions to which the individual can recourse for protecting his/her rights.

These two obstacles will be referred to in the second section of this chapter, and consequently, discussing them in detail is now postponed to move on to explain the legal nature of the HR to environment and its characteristics.

2nd: The Legal Nature of the Human Right to the Environment

If the HRs exist and are approved in the field of legal rights as previously mentioned, then, is the environment a suitable place for human rights? To answer this question, the legal

nature of the environmental components in Positive Law has to be investigated. The Positive Law views the environment (air, light, sea, and water) as "money" or common things that cannot be subject to subjective private rights. This is due to the nature, as it were, of the environment's "money"/resources which is/are marked by three characteristics:

1. It is not human-made and is renewed naturally according to its natural conditions factors.
2. It is essential and necessary for life.
3. Finally, it is "money" for consumption or public utilization (beneficial interest).

This "money" (water and air) is natural because it is not human-made; namely, it is public money on which the human being cannot claim a pure right since the existence and renewal of this "money" has nothing to do with the human will. Moreover, it is renewed naturally, automatically and endlessly as it is essential and necessary for life. As for the fact that it is "money" essential and necessary for life, water and air are one of the elements necessary for every living being: the human cannot survive without air for two or three minutes at most, nor can s/he survive without water for more than two days at the most, which gives this "money" a special nature in the sense that it cannot be owned or taken over to deprive others of it. Being "money" for consumption or public utilization (beneficial interest) signifies that the consumption or utilization by some does not, in principle, affect or reduce others' beneficial interest because it does not terminate. This allows persons to utilize at the same time/timing and circumstances.

Pursuant to these characteristics, jurisprudence draws a conclusion that the environmental "money" is one of the common money that cannot be subject to private rights. Nevertheless, the jurists talk about some exceptions to this rule which states that fresh water and rainwater can be— under certain conditions— subject to post hoc rights because the environment "money" can be legal as it is useful and beneficial to humans and can be subject to rights in the event of conflicts and incompatibility of interests (Dabin, 1952)

In light of the technological development and the ever-increasing use of natural resources for the purpose of meeting the different needs of people, the phenomenon of conflict of interests begins to increase significantly over the use of environment money. This leads the mainstream in jurisprudence to view the environment money as legal money that also has legal rights.

3rd: Defining Human Right to Environment and its Characteristics:

It has been stipulated that humans have a right to the environment in all international conventions concerned with HRs in general and environmental rights in particular.

The study indicates that the ugliest expression of this right came in the Declaration on HRs issued by the International Islamic Conference held in London in April 1980, which stipulated:

Nature with all its full benefits and resources belongs to and owned by Allah Almighty, "To God doth belong the dominion of the heavens and the earth and all that is therein" (Al-Qur'an, Al-Mā'idah, 5: 120). This is one of the great blessings that God has bestowed upon all of humanity, "And He has subjected to you, as from Him, all that is in the heavens and on earth" (Al-Qur'an, Al-Jāthiyah, 45: 13).

God also forbids human beings from corrupting nature, "And do not commit abuse and evil on earth, spreading corruption" (Al-Qur'an, Ash-Shu'arā', 26: 183). No one may deprive another or violate his/her right to benefit from what is in nature regarding the sources of livelihood, "The bounties of thy Lord are not closed (to anyone)" (Al-Qur'an, Al-Isrā', 17: 20).

In a similar vein, Article (17) of the statement issued by the meeting held in Cairo by the Organization of Islamic Conference on August 5, 1990, explicitly stipulates the HR to environment as follows, " Every member of society has the right to live his life in a safe and clean environment, far from moral corruption and vice, an environment that helps the individual develop himself; therefore, the responsibility of providing this right falls on society and the state in general."

4th: Characteristics of Human Right to Environment

There is no similarity between other personal rights of human and the his right to environment, though they all aim at protecting the human being from being assaulted or violated in his/her person. This shows that some of the distinctive characteristics of this right can be fulfilled as follows:

1. The HR to environment is a general right, which means that every person has this right.
2. The HR to environment is an absolute right, which means that it is a right that must be respected by all persons in accordance with the law.
3. The HR to environment which can be evaluated monetarily.

The concept of "evaluation with money", here, means that it can be compensated for with money, albeit in many cases difficult to achieve and apply.

Section Two: Corresponding Obligations to Human Right to Environment

One of the problems facing the concept of HRs to environment in general has been the issue of specifying the corresponding obligations to these rights. As a result, jurisprudence has attempted to show and set out these obligations as regards HRs in general and HR to the environment in particular.

1st: Corresponding Obligations to Human Rights

The corresponding obligations to HRs are represented in the State's obligations towards its citizens and those it bears and shoulders towards each other.

(1) State Obligations

Jurists have noted that specifying the obligations incumbent upon the State towards its citizens are made and given in terms of the economic and social rights since the State obligations as to the civil and political rights are self-evident. In addition, these jurists who belong to the International Covenant noted that the text of Article 2, relating to social, economic and cultural rights, states that "each Country Party... undertakes to take several important steps... with a view to the full realization of and progressively recognized rights in the present Covenant". It is clear from the wording of this text that the State obligations, here, are consequential obligations; therefore, it shall take steps. Besides, the State is hereby committed to promoting the realization

of rights and taking the necessary steps, among which is the enactment and passing the necessary legislations.

It can be said that the State's duties towards HRs in general are fulfilled on three levels and duties: (1) respecting the right, (2) protecting the right, (3) implementing the right. The requirement of respect for right is that the State and its bodies abstain from doing any action that would violate the right. The duty of its protection requires that the State and its bodies prevent others from violating the right. The duty of implementing the right requires that the State should take the necessary procedures and measures to guarantee every person under its jurisdiction the opportunities to satisfy the recognized human needs.

(2) International Obligations:

States have obligations, respecting HRs generally, regard to the international solidarity and cooperation and the application of international agreements and covenants related to HRs . They include procedures for monitoring the States' application of their HRs obligations whether by judicial or quasi-judicial mechanisms.

2nd: Corresponding Obligations to Human Rights to Environment:

Based on the fact that every right has a duty, humans have a legal right to the environment that imposes obligations on the state towards its citizen, as well as international obligations under the IHRL.

(1) State Obligations:

In addition to the state having obligations in the field of HRs in general, the state or its bodies are obligated (with regard to preserving, caring for and protecting the environment) to refrain from engaging in any activity that leads to damage or change in environmental conditions. The country is also required to prevent the individuals from doing such harmful actions and to provide correct environmental information for the various bodies involved.

(2) International Obligations:

The State is committed not to cause environmental harms outside the boundaries of its territorial sovereignty. It is an affirmative commitment to exercise due care and attention, not the commitment to achieve a result based on the principles of abuse of rights and good neighborliness. Besides, the State is committed to the international cooperation with other States to protect the environment. This cooperation assigns a duty upon the State to declare and inform other countries of the environmental harm, exchange environmental information, and consult and negotiate with the other countries regarding the various projects that play an important role in affecting the environment and aspects of its protection, etc.

Chapter Two: Protecting the Human Right to Environment

Investigating the issue of protecting the HRs to environment entails examining the truth of the subjects of this right and its legal sources which are regarded as the legal basis on which the procedures and measures for protecting the HRs to environment are based. Accordingly, this chapter is divided into the following two sections: section one: Subjects of the Human Right to Environment and section two: Sources of the Human Right to Environment and the Procedures to Protect it.

Section One: Subjects of the Human Right to Environment

Jurists have resorted to dividing HRs into different categories, the foremost of which is that binary division that groups the into two categories: the category of political and civil rights, and the category of social, economic and cultural rights. By the same token, these rights have been divided into three generations. There are three generations: the first relates to political and civil rights, the second relates to social, cultural and economic rights, and the third relates to solidarity rights or collective, in the forefront of which is the right of members of communities in their countries to development, peace and self-determination (Mac Bassuyt, 1975)

These divisions have come under several criticisms, the foremost of which is the debate over the binary divisions of human rights:

Some jurists argue that this division is complex, misleading and unreal. They add that it is inconsistent with the contemporary development of HRs as the mainstream (prevailing trend) before the 20th century was based on the fact that the proponents of Capitalism defended the political and civil rights, whereas those of Communism defended the economic, social and cultural rights. The contemporary development to HRs has resulted in excluding this division owing to the political clashes resulting from this division.

Other jurists maintain that the social and economic rights are neither rights nor universal rights, and that the universal rights are the political and civil rights which can be provided for humans, unlike the social and economic rights which can only be provided in the presence of the necessary physical, rather financial capabilities.

Whatever the case might be, it is not possible to give priority to some rights at the expense of others since this contradicts with the basic principle that HRs are interconnected and indivisible.

As for the debate over dividing human rights into generations:

Jurist Vasak says that the first generation regarding political and civil rights is based on the idea that freedom contributes to providing protection and care against any type of violations carried out by the state against people. This is followed by the second generation related to social and economic rights, which is based on the principle of equality, which guarantees people positive and smooth access to services and goods. While the third generation was linked to HRs, it is based on the principle of brotherhood between individuals, which requires new and diverse forms in the field of work and international cooperation. These rights are required to overcome the international unevenness that thwarts the rights fulfillment of the first two generations, especially in the Third World countries when the HRs to development was stipulated in the UN General Assembly declaration in 1986.

A group of jurists has objected to dividing HRs into generations. They argue that this division implies that there is a chronological order in utilizing rights: initially, humans enjoy the political and civil rights, then, demand for the social and economic rights which must precede the collective rights (solidarity rights). For them, this is not consistent with reality. In the same vein, they assert that the idea of solidarity adopted by the third generation is not compatible with the concept of the principle on which human rights are based, which is also based on the concept and principle of human dignity that exists and is inherent in humans. Solidarity means that there is a relationship between persons or groups, which gives benefits based on a particular society. Thus, any rights stemming from solidarity are not humanitarian rights.

Opponents of the idea of generations remark that the idea of collective HRs represents a fundamental intellectual deviation. Nations and Groups have various rights, but not humanitarian rights; individual HRs and collective peoples' rights are two different kinds.

As for evaluating these jurisprudential views directed at collective rights, it turns out that they contradict the international practical realities. The right to self-determination stipulated in the first article of international agreements on collective rights relates to peoples. Furthermore, there is acknowledgment by States and jurists of the right to a collective environment and to development with which collective rights cannot be denied. In this regard, a group of jurists believes that the human right related to the environment belongs to the category of social, economic and cultural rights, while another group believes that this right falls within the category of the third generation of collective human rights.

In my view, if we leave the issue of dividing or classifying HRs aside, we find that the problems of protecting the environment occupy the forefront today, whether on the individual or collective levels. The human right to life, which is one of the political and civil rights. This cannot be achieved without a clean, healthy and balanced environment. Likewise, it is inconceivable that the human being can enjoy and realize his/her economic and social (work, food, health, housing, etc...) rights without a proper and clean environment. If the concept of the environment is comprehensive, concerns all humanity and the procedures taken for its protection cross the States' borders, the human right to the environment can fall within the scope of the individual and collective rights at the same time; the human being has the right to a proper, clean environment and so do peoples.

Based on the information provided above, I can conclude that the subjects of the human right to the environment may be one of the natural persons or legal persons (body corporate): to be more specific, the human being as a natural subject and the State as a legal subject (body corporate). Both enjoy the right to a proper, clean, and healthy environment. This right enjoys protection at the national level inside the country and abroad at the international level as shown in the following section of this research.

Section Two: Protecting the Human Right to Environment

The international community acknowledged the human right to a proper and safe environment when the risk to the environment aggravated and exacerbated owing to pollution and corruption befell all its elements, when its resources became scarce and its bounties and blessings depleted when its temperature rose, and when the Ozone Layer became fragile. Consequently, the international community, aware of this risk and catastrophe, decided that human beings have the right to a clean, healthy, safe and proper environment and that this right is one of the fundamental HRs similar to his/her right to life, physical integrity and well-being, freedom, education, litigation, movement, and other fundamental rights in accordance with the international charters and conventions that acknowledged that the human has the right to a clean environment (Ahmed Fathi, 2000, Qathiza 2015).

States also paid attention to the human right to the environment. They stipulated this right in their national constitutions, enacted and passed the necessary legislations to establish the legal basis for this right and identify the procedures for protecting it at the national level. And since the issue of including legal texts, which explicitly stipulate the human right to environment in

general, is considered the legal basis to protect this right at the national level inside the country and abroad at the international level, I discuss this issue in the following two topics:

1. The Legal Basis for Protecting the Human Right to Environment at the International Level.
2. The Legal Basis for Protecting the Human Right to Environment at the national Level.

Topic One: The Legal Basis for Protecting the Human Right to Environment at the International Level

The international conventions and charters have emphasized that a clean environment is a human right and that this right is one of his/her basic rights, reflecting the establishment of international legal rules to which the States are committed to limit and decrease the environmental degradation within the sources of the Public International Law generally and the International Environment Law particularly. Subsequently, the most important sources of International Law that are concerned with the text or with the endorsement and acknowledgment of the human right to the environment (Ahmed 1992; Saleh Badr 2006; Zerbani 2019) are shown below.

1st: International Treaties: It is not easy to enumerate the international conventions and treaties that emphasize the HR to a clean environment. Therefore, some of these international and regional conventions, which confirm the HR to the environment, are just mentioned:

1. The International Covenant on Social, Economic, and Cultural Rights (ICSECR), issued by the UN in 1966, is at the forefront of international treaties. It states in Article (12) that "the States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The steps to be taken by the States Parties ... to achieve the full realization of this right shall include those necessary for ... the improvement of all aspects of environmental and industrial hygiene".
2. The first principle of the 1972 World Conference on the Human Environment in Stockholm states that "humans have the fundamental right to freedom, equality, and adequate living conditions in an environment that allows for a dignified and prosperous life. Additionally, it emphasizes the solemn responsibility of individuals to safeguard and enhance the environment for both current and future generations".
3. The international conferences, interested in environmental protection in general, are concerned with emphasizing the human right to environment. Among these conferences are the Conference on the International Law of the Sea on 10/12/1982, and the UN Conference on Climate Change held in Rio de Janeiro, Brazil in 1992, in Copenhagen in 2009, and in Cancun in 2010.
4. Of the regional conventions, I mention:
 - The African Charter on Human and Peoples Rights issued in Nairobi on 18/6/1981, which stipulates, in Articles 16 and 24, the right of all individuals and peoples "to enjoy the best attainable state of physical and mental health" in addition to "to a general satisfactory environment favourable to their development".
 - The Additional Protocol to the ACHR (American Convention on Human Rights) in 1988 stipulates the right of every person to live in a balanced environment.
 - The Arab Charter on Human Rights in 1986 which stipulates in Article (18) the human right to a pollution-free environment.

At the European level, there is the declaration issued by the Council of Europe, following the European Conference on Environmental Conservation held in Strasbourg from 9-12 February, 1970, which explicitly stipulates the right of every person to benefit from a balanced, healthy environment.

2nd: The International Custom: It is well established in the international jurisprudence that the resolutions of international organizations, even if they are not explicitly stipulated in Article (38/1) of the Statute of the International Court of Justice, are regarded as one of the sources of the International Law. These resolutions contribute to establishing the international custom, whether by working on and striving for its establishment, by revealing its rules which accumulated in the past after they got established by the international action, or by way of codification as an international custom (Kris (A.CH) 1968).

Within the framework of the International Environment Law, the declarations of the international conferences, the resolutions of the international organizations (global and regional), and the international conventions/agreements concluded to protect the environment in general have had an effective role in establishing the international precedent that humans, countries, peoples and all humanity have a human right to a proper, balanced environment since Stockholm Declaration on Human Environment in 1972.

Stockholm Declaration established a customary rule within its first principle which states the human right to "an environment of a quality that permits a life of dignity and well-being". The Rio Declaration completed this rule when it linked the enjoyment of the right to the environment to sustainable development as stipulated in its first principle that "human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature".

The resolutions of the international organizations, which had a role in declaring the right to a proper, healthy environment as a customary rule, whether by revealing or establishing, are numerous; for instance, the resolution passed by the UN General Assembly, dated 11/12/1969, and entitled, "The Declaration on Social Progress and Development" (Nabil Abdullah 1975), asserted the human right to environmental integrity as a common heritage of humanity.

Regarding the role of treaties in establishing the right to environmental integrity as a customary rule, we find that the international treaties containing some rules related to HRs constituted an immediate custom. This could be applied on the African Charter on Human and Peoples Rights (Articles 16, 24) and the Additional Protocol to the ACHR (Article 11). Both of them set a reliable precedent in establishing the customary rule that recognizes the human and peoples' right to an integral, healthy environment.

3rd: General Principle of Law: The general principles of law are one of the main sources of the International Environment Law according to Article (38/1) of the Statute of the International Court of Justice. This means that the international judge can resort to these general principles of law to adjudicate the dispute before him/her, if there is no convention-based or customary rule related to the human right to environment. Examples of the general principles of law that can be depend upon to protect the human right to environment are the attitude of good neighborliness, the principle of non-abuse of right and the principle of repairing or compensating the damage.

At the global level, among the recommendations of the Stockholm Conference on Human Environment was the necessity to establish an international body affiliated to the UN and concerned with the environment. Indeed, the General Assembly made Recommendation No. 2998 on 15/12/1972 to establish a body for this purpose, known as UNEP (United Nations Environment Program), based in Nairobi, Kenya. It aims to promote and enhance international cooperation in the environmental sphere and prepare the necessary studies and regulations to protect the environment (Abdel-Aziz 1986)

In the field of studying the environmental dimensions and impacts on development, the General Assembly established an international committee called the WCED (World Commission on Environment and Development) in 1983 to strengthen and step up the international efforts necessary to take into account sustainable development within the framework of environmental protection. In 1988, in cooperation with the World Meteorological Organization (WMO), the International Panel on Climate Change (IPCC) was established. These mechanisms are some examples of the international bodies concerned with the protection of the environment in general as well as providing the mechanisms necessary to protect the human right to the environment.

At the regional level, the bodies and agencies of the European Union are leading in the field of protection of the environmental and providing the appropriate regulatory framework. Examples of the bodies and committees established by the European Community include the European Commission for the Conservation of Nature and Natural Resources and the Subcommittee on Air and Water Pollution.

It is noteworthy, then, that despite the efforts exerted at the international level on the whole, these efforts have not gone beyond being declarations of principles, framework agreements and recommendations which are not legally binding and which fall under the scope of what is called "Soft Law" (Seif 1437 AH). This signifies that the international mechanisms, which can be based on to protect the human right to environment, still need to be developed to reach the level which imposes legal obligations on States to protect this right.

Topic Two: The Legal Basis for Protecting the Human Right to Environment at the national Level

While the international conventions concerned with the environment frequently recognized the human right to a clean environment, the national legislations spared no efforts caring about this right whether by explicit stipulation among its provisions or by regulating the measures and procedures for protecting it. Many modern constitutions paid that right due attention within their provisions (Ahmed et al., 2019; Eid Ahmed 2011; Dawood 2007).

Examples of the national constitutions which stipulate the human right to environment include the French Charter for the Environment (2004) which states, "Everyone has the right to live in a balanced environment which shows due respect for health," Article (11) of the Interim National Constitution of the Republic of the Sudan (2005) which stipulates, "The people of the Sudan shall have the right to a clean and diverse environment," Article (50) of the Constitution of the Islamic Republic of Iran which states, "... it is considered a public duty to preserve the environment where the present and the future generations may have an improved social life," and Article (45) of the Constitution of Spain. In this regard, Article (46) of the Constitution of the Arab Republic of Egypt (2014) explicitly states that "every individual has the right to live

in a healthy, sound and balanced environment. Its protection is a national duty. The state is committed to taking the necessary measures to preserve it, avoid harming it, rationally use its natural resources to ensure that sustainable development is achieved, and guarantee the rights of future generations thereto". In the same vein, the Kingdom of Saudi Arabia paid heed to the protection of environment as it is directly related to human beings; it stipulates this right in environmental protection system and its executive regulation in the Royal Decree No. M/34 issued on 28/7/1422 A.H. (16/10/2001 A.D.)

It is worth declaring that the explicit constitutional text of this right acts as a constraint on the ordinary legislator when taking over the enactment of laws regulating this right, which set the detailed provisions for it. This constitutes an independent guarantee for this right and the other basic rights.

The national legislations give attention to regulating the necessary procedural rules to realize the human right to environment through the administrative means used by the administrative control and discipline bodies within the State, which include preventive and remedial means, or through the judicial bodies that address the violations of this right when they amount to criminal acts, and are considered one of the environmental crimes as in the case of deliberate environmental pollution and dumping waste which threaten the health of living beings (Nayef 2005; Mohamed 2005)

Results

The most significant results of this research are as follows:

1. The human right to environment is one of the most important HRs as it affects many other HRs such as the right to life, the right to health and the right to work, etc...
2. The HRs to environment occupies an important position within the framework of environmental protection. Environmental protection cannot be demanded for without the existence of this right which represents the key pillar and mainstay from which the procedures for protecting the environment start at the national level inside the country and abroad at the international level.
3. The human right to environment is a legal and has characteristics that distinguish it from other rights in that it is a general and absolute right that can be evaluated by "money".
4. The interest in this right is due to its expression and stipulation in Stockholm Declaration issued in 1972, along with the international documents concerned with HRs and fundamental freedoms, starting with the Universal Declaration of HRs issued in 1948 and the other global and regional international conventions which explicitly stipulate it.
5. The legal basis for this right is represented in the legislative and constitutional texts which explicitly stipulate it, whether at the national or international levels, and they are the legal basis which the demand for its protection is based on.
6. This right falls under the scope of the social, economic and cultural rights, along with that of the collective rights as it is a right to the human being and peoples at the same time.
7. The human right to environment is related to sustainable development which is one of the most important pillars upon which the protection of the environment is based. The

enjoyment of this right and the natural resources of the environment should not undermine the right of future generations to a clean, sound and integral environment.

Conclusion

The previous pages investigated the human right to environment through two main chapters. The first chapter discussed the definition of the human right to the environment and its legal characteristics. The second chapter addressed the protection of the human right to the environment at the national level inside the country and abroad at the international level. Although this topic has been addressed in many research and studies, it focuses on the most important legal aspects via identifying and examining the legal definition of this right, owing to the jurisprudential differences about the recognition of this right as a legal right, due to the legal nature of the object of the right and the absence and lack of a specific definition to that right until now. Therefore, we have to address the legal basis and legal sources to determine how to protect the rights at the national level inside the country and abroad at the international level.

Recommendations

In light of the above, we can suggest some recommendations:

1. Paying attention to stipulating the human right to environment, identifying and defining its definition from a legal perspective and demonstrating its characteristics in various international documents and national constitutions and legislations.
2. The need for States, at the national level, to take all the procedures and measures necessary for the human being to enjoy and realize his/her rights to a clean, sound environment.
3. The need to raise awareness on the national level inside the country and abroad at the international level that the human right to environment has corresponding duties which should be fulfilled by all members of the society nationally and internationally.
4. The means of settling disputes related to the environment should be provided at the national level inside the country and abroad at the international level, which require the existence of courts and bodies specialized in protecting the environment.
5. Giving attention to protecting the human right to environment within the requirements of sustainable development at the national level inside the country and abroad at the international level.

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