

Human Rights and the Environment

Recently the nations of the world agreed in principle to recognize that 'all individuals are entitled to live in an environment adequate for their health and well-being' (UNGA, 1990 Paragraph 1), a sentiment which echoed two earlier international declarations that 'man has the fundamental right to ... adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being' (UNCHE, 1972 Principle 1), and that 'everyone has a right to a standard of living adequate for the health and well-being of himself and his family' (UNGA, 1948 Article 25.1).

Among the several questions that arise in having the nations of the world acknowledge a human right to an adequate environment, two are addressed here: (a) the extent to which such a 'right' has, in fact, been provided for in international human-rights law; and (b) the extent to which such a 'right' is, in fact, possible to fulfil.

The Human 'Right' to an Adequate Environment

Protection of the environment in one fashion or another is, of course, provided for in a considerable number of multilateral treaties, conveniently grouped within the category of international environmental law (Kiss, 1983; Rummel-Bulska & Osafo, 1991; Weiss *et al.*, 1992). Some further modest amount of environmental protection is provided for in the law of war or armed conflict (Schindler & Toman, 1988; Roberts & Guelff, 1989), in international humanitarian law (ICRC & LRCS, 1983), and in the law of arms control (Goldblat, 1982; UNDDA, 1988). But in no instance is environmental protection explicitly justified in the diverse instruments comprising these bodies of international law in terms of a human 'right'.

The question thus arises of the extent to which the right to an adequate environment is imbedded in binding international human-rights law itself (UNHCR, 1979; UNCHR, 1988). To a large extent understandably, most of the instruments in this edifying body of law do not include environmental protection among their provisions. In fact, only two binding human-rights instruments, open to all states, provide for an adequate environment as a human right — one implicitly and the other explicitly:*

1. *The Covenant of 1966 on Political & Civil Rights [UNTS Nr 14668]*:— The states parties to this treaty (c. 117 of 190, as of March 1993) have formally accepted that 'every human being has the inherent right to life' [Article 6.1]. It can readily be suggested that this fundamental human right implies a right to an environment adequate for its realization (Gormley, 1990 pp. 111–2; Ksentini, 1991 p. 3; Schwartz, 1992 pp. 23–9, *cf.* also Nickel, 1993).

2. *The Convention of 1990 on the Rights of the Child [UNTS Nr 27531]*:— The states parties to this treaty (c. 131 of 190, as of March 1993) agree to take appropriate measures to combat child disease and malnutrition, *inter alia*, explicitly through 'the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution' [Article 24].

Attainability of an Adequate Environment

From the above discussion it can be seen that the nations of the world have collectively recognized that there exists an inherent human right to an adequate environment. Indeed, as indicated earlier, some two-thirds of the nations of the world have actually supported that notion *via* binding treaty commitments. Moreover, at least nine nations — Brazil, Chile, Ecuador, Nicaragua, Panama, Peru, Portugal, South Korea, and Spain — have explicitly incorporated it into their national constitutions (Weiss, 1988; Ksentini, 1991 pp. 5–7). But in establishing such a proposition, the nations of the world have at the same time implicitly accepted an obligation to provide such a human right.

Is it, in fact, possible for most countries — or indeed for human society as a whole — to honour a commitment to provide an adequate environment for all people? One of the great tragedies of this era is that an ability to honour such a commitment is becoming ever less likely (Westing, 1990, 1991, 1992). A few decades ago, the demands upon Nature, occasioned by the growing human numbers and increasing human aspirations, were sufficiently cryptic to escape widespread popular attention. This was so owing in part to their amelioration by technological advances, in part to a not-widely-appreciated borrowing from the future — that is, *via* non-sustainable resource exploitation on one hand and non-sustainable waste disposal on the other — and in further part to continued material prosperity, especially in the relatively few developed countries. But the ever-growing human numbers *plus* the ever-increasing human aspirations are unfortunately taking place in a global environment of fixed size.

Thus in 1970 there were still 3.6 hectares of land on Earth per person; by 1980 that area had shrunk to 3.2 hectares per person; and by 1990 it was down to but 2.5 hectares per person** — a 20-years' decline of 30% in global *per caput* land availability.** Moreover, expansion of irrigated farmlands has not kept up with

*Environmental concerns are specifically enunciated in only two further instances within the body of human-rights law, although not in terms of a human right to an adequate environment. In the Covenant of 1966 on Economic, Social & Cultural Rights [UNTS Nr 14531], the states parties (c. 120 of 190, as of March 1993) agree to take steps to achieve the full realization of the highest attainable standard of physical and mental health, *inter alia* through 'the improvement of all aspects of environmental ... hygiene' [Article 12]. And in the Convention of 1990 on the Rights of the Child [UNTS Nr 27531], the states parties (c. 131 of 190, as of March 1993) agree that the education of the child shall be directed, *inter alia*, to 'the development of respect for the natural environment' [Article 29.1].

** We trust these figures include due consideration of the chronic loss all the time of more and more cultivable land (too often the best) to concrete or other highways, building projects, golf-courses and other sports interests, etc., etc., with widely increasing human populations and aspirations. — Ed.

expanding needs: irrigated area *per caput* was still rising steadily in the early 1970s, but by the late 1970s this value had peaked, and it has been declining steadily ever since. But perhaps as the most telling indicator: in 1970 only one country (Chad) was experiencing a continuing decline in gross national product *per caput*; by 1980 the number of countries losing the economic race with their population growth, as determined in this fashion, had risen to about 35; and by 1990 the number had reached an awesome 90 or more.

Conclusion

Each nation has a clear obligation to provide its citizens with security, which is perhaps its primary *raison d'être*. To that end, the state is obligated not only to provide politico/military security, but social security as well (Westing, 1986, 1989). However, in order to achieve this properly expanded concept of security, the state has to bring into balance the needs of its people with its natural, material, and financial, resources.

As indicated above, for an ever-growing number of nations, comprehensive security is becoming an ever-more-elusive goal. Thus, if the truly commendable aspiration to provide an adequate environment for all is to be achieved by Humankind, then a number of extraordinarily demanding goals must be realized, chief among which are: (a) national populations must not only be stabilized, but in most countries at lower than their current levels; (b) both the consumption of resources (renewable and non-renewable) and the disposal of wastes (solid, liquid, and gaseous) must be substantially curtailed in the developed countries of the world; and (c) on a global basis, resource consumption and waste disposal must each be strictly limited to sustainable levels; and, moreover, each of these two endeavours in goal (c) must be equitably allocated. And finally, in striving for an adequate environment for Humankind, it must be recognized that this environment has to be shared with the other living inhabitants of The Biosphere.

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