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# Examining The Relationship Between Health Rights and Environmental Rights

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## ABSTRACT

The right to health as an inherent right means that everyone has the right to achieve the highest standard of physical and mental health, and this right includes all medical services, public health, adequate food, suitable housing, a healthy work environment, and a clean environment. includes in general, the environment is a connected set of factors and conditions on which the life and durability of living organisms depend, based on the above definition of environmental rights, it discusses the rules that govern the relationship between humans and environmental factors. or in other words, environmental rights are a set of rules that regulate the relationship between humans and the environment. Therefore, environmental law brings under discipline and controls human behaviours and actions that can lead to bad effects or destruction and pollution of the environment and natural resources. The reason for contracting all kinds of diseases and as a result, increasing mortality and decreasing life expectancy will be a problem for that country and even its neighbours. Pollutions sometimes have such destructive effects that the residents of that area suffer from them and bear their effects for generations to come. Therefore, preserving the environment and protecting it against all kinds of pollutants is closely related to the health of the inhabitants of that ecosystem. According to the above, this research, uses the analytical-descriptive method, in order to examine the relationship between health rights and environmental rights.

## **Introduction**

The principle of protection and protection of the environment is one of the special principles of the environment, this principle specifies and expresses a basic framework and a superior legal requirement with the aim of protecting public interests and preserving people's health and improving the quality of life. In 1986, a group of environmental experts of the World Commission on Environment and Sustainable Development announced that the right to a healthy environment is not yet fully considered as a right established in current international law. To fill this void, they include a set of global legal principles in the field of environmental protection and sustainable development, which are drawn with a global integrated view and with binding legal instruments, and stipulate that all human beings suggested that they have a fundamental right to a suitable environment along with their health and well-being. The right to a healthy environment, as one of the rights of the third generation of human rights, has a lot to do with other rights of the three generations of human rights, but we can safely say that among them, the most connection is with the right to life and the right to health. and health. The connection between these two rights is such that in the international arena, various documents have been approved to legalize this interaction and better preserve the environment and the cooperation of all countries to save the environment from the pollution crisis.

### **1- Conceptology**

In this topic, to familiarize the audience with the topic of research, we discuss the concept of discussion.

#### **1-1- The concept and scope of the right to health**

Although the concept of the right to health among the general public may be associated with medical and health care, the right to health can have a concept and scope beyond this concept and may include a wide level of factors and dimensions. May it help us to have a healthy life; Therefore, in order to understand the conceptual scope, territory and content of the right to health, it is necessary to look at the international documents related to this right. Universal recognition of the right to health does not mean that the concept and content of this right is completely clear, and in fact, explaining the right to health is a very difficult and complicated task. Important factors that make it difficult to provide a comprehensive definition of the right to health (Al-Kajbaf, 2012, p. 144). Health is a relative issue. It means that it may be completely different to people and their living environment and their type of activity and work.

According to the above content, it seems that the interpretation of the right to health has a deficiency, in addition to the fact that the conventional understanding of it is not the right not to be sick, disabled, old, etc., a much broader concept than the right to medical care and It has health care and even health protection, and for this reason, it has been used more generally, especially at the international level. In other words, the expression of the right to health is a shortened phrase that has a broader content than the mentioned terms and for this reason, it is preferred over them.

#### **1-1-1- The right to health in the constitution**

Article 29 of the Constitution recognizes the right to healthcare and medical care for everyone and stipulates: "Having social security in terms of retirement, unemployment and old age, disability, homelessness, The need for health and medical services and medical care in the form of insurance, etc. is a right for everyone during travel, accidents and accidents. In addition to principle 29, other principles are also related to health. According to paragraph 12 of the third article of the constitution, establishing a correct and just economy according to Islamic rules to create prosperity and eliminate poverty and eliminate any type of deprivation in the fields of nutrition, housing, work, health and generalization of insurance is one of the duties of the government. Clause 1 of Article 43 considers the provision of basic needs, i.e. housing, food, clothing, health, treatment, education, and the necessary facilities for starting a family for everyone, as one of the criteria on which the economy of the Islamic Republic of Iran should be based (Abbasi and others, 2013, p. 188).

#### **1-1-2- The right to health in the twenty-year vision document**

One of the goals of a democratic economy is that people live longer and healthier lives, and the government tries to prevent and solve health problems by taking measures. The government, as the representative of the society, pursues three major goals in this field, which are: prolonging the period of a healthy life, reducing health differences between people and regions of the country, and providing access to preventive services for All (Badini, 1387, p. 37). Considering that the quality of health is not the same for everyone and that disease causes the depreciation of health, which is human capital, the twenty-year vision should be implemented by applying appropriate policies to reduce these problems and determine the goals of this vision. Pay attention to health. The twenty-year vision document, describes the characteristics of a healthy Iranian society as a society with health, welfare, food security, social security, equal opportunities, proper distribution of income, strong family institution, without poverty, corruption and discrimination and benefiting from a favourable environment, he has emphasized on various socio-economic dimensions that lead to health.

In the vision document, the items and emphases related to the health sector are: "Creating a healthy, ethical society, based on Islamic values, culture-oriented and informed, honorable citizens with the criteria of honesty and a sense of satisfaction." Strive to achieve social justice and improve the level of indicators of education, health, food security, Islamic culture and education and the establishment of a comprehensive social security system. Territorial planning is based on the principles of security and defense considerations, efficiency and economic efficiency, unity and integrity of the land, expansion of social justice and regional balances, environmental protection and restoration of natural resources, and attention to development based on domestic resources and elimination of deprivation. especially in the rural areas of the country.

## **1-2- Definition and scope of environmental rights**

In general, the environment is a connected set of factors and conditions on which the life and durability of living organisms depend, based on the above definition of environmental rights, it discusses the rules that govern the relationship between humans and environmental factors. or in other words, environmental rights are a set of rules that regulate the relationship between humans and the environment. Therefore, environmental law brings under discipline and controls human behaviors and actions that can lead to bad effects or destruction and pollution of the environment and natural resources (Environmental Organization, 2017, p. 4).

In describing the scope of environmental rights, the international assemblies base the boundary considered for the environment on the basis of the term used by UNESCO in 1988 in the human and habitable planet program, i.e. the vital layer or biosphere. It is the most defined definition and concept. The vital layer or biosphere refers to the range or region of the earth that is considered the environment of human life or that part of the world where, according to current human knowledge, all life is located in it. With this explanation, environmental rights have a wide scope based on powers and authorities with a wide scope and scope of legal supervision of environmental relations.

### **1-2-1- The principles of environmental law**

General legal principles, including the principles of environmental law, have foundations beyond ordinary laws and rules. These principles play a very important role in the foundation of a legal provision and generally in the consolidation and development of rights. Legal principles, even if they are not in the form of written rules and laws, by relying on legal custom, they have their importance and influence in society and among lawyers, just as principles such as keeping a promise or the rule of harmlessness in the laws of our country are the guide to the legal rules of support in the field of law. They are individuals. Below, some important legal principles of the environment are briefly mentioned (Environmental Organization, 2008, p. 5):

#### **1-2-1-1- The principle of protecting and protecting the environment**

It is one of the special principles of the environment, this principle specifies and states a basic framework and a superior legal requirement with the aim of protecting public interests and maintaining people's health and improving the quality of life.

### **1-2-1-2- The principle of sustainable development**

Since the 1980s, this principle has been accepted by society as a new and profound environmental concept and has been reflected in the legal rules. Based on this principle, environmental protection in order to achieve sustainable development should be considered as an inseparable part of development in every country.

### **1-2-1-3- The principle of prevention**

This principle, which is known as the golden rule, is of particular importance in terms of ecological (ecological) and economic aspects, the application and consideration of this principle, which is in the legal rules in the form of regulations for the assessment of environmental consequences or bio-assessment. It is known that the environment prevents both economic losses and environmental damages.

### **1-2-2- The right to a healthy environment**

Environmental issues and problems caused the need to formulate environmental regulations to be felt in the international arena. In this way, the right to a healthy environment was gradually recognized and one of the rights of the third generation of human rights was "solidarity rights". The right to a healthy environment has both individual and collective aspects. In the individual aspect, no citizen has the right to damage and destroy the environment in any way. In this regard, the injured parties have the right to file a lawsuit in case of environmental damage. The collective dimension of this right is related to the duties of the governments, in which the governments are obliged to cooperate with each other in solving the environmental problems of the world (Abbasi, 2010, p. 452).

Among the international treaties, several documents regarding the right to a healthy environment have been approved so far. The most important of these documents are the Stockholm Declaration, the World Charter of Nature, Rio Declaration. Some of the principles of human rights documents that have been approved by the United Nations consider the right to a healthy environment as one of the basic human rights. For example, paragraph 1 of Article 25 of the Declaration of Human Rights declares: "Everyone has the right to ensure the standard of living, health and well-being of himself and his family in terms of food, housing, medical care and social services." Article 21 of the Universal Charter of Human Rights refers to the need for states to refrain from causing transboundary damage to the environment of other states or the global community. In the draft of the International Covenant on Solidarity Rights, Article 14 is dedicated to this matter. This article stipulates: "Each human being individually and all human beings collectively have the right to benefit from a healthy environment with native biological balance and suitable for economic, social, cultural and legal development" (Molai)2007., p. 278.

## **2- Examining the examples of human rights in preserving the environment and their relationship**

In this topic, in three talks, we will examine the examples of human rights in preserving the environment, the relationship between human rights and the environment, and the recognition of environmental rights as public rights.

### **1-2- Examples of human rights in protecting the environment**

Today, the use and enjoyment of a healthy environment is one of the rights that has been manifested in the form of the third generation of human rights. The third generation of human rights refers to a set of rights that directly or indirectly affect all human beings and even future generations. Their fulfillment will benefit everyone and their violation will result in everyone's loss. These rights are completely interrelated and inseparable. Having them is the right of all people and nations, and

trying to realize and achieve them is everyone's duty and responsibility. This category of rights is also called the rights of association. This means that achieving them requires the collective effort and interaction of all humanity. The first human rights document that specifically deals with the human right to a healthy environment and his duty to preserve and protect this environment is the Stockholm Declaration, which was approved in 1972 during the United Nations Conference on the Human Environment. . The first principle of the aforementioned declaration stipulates that human beings have the fundamental right to freedom, equality and suitable living conditions in an environment whose quality has provided the possibility of a dignified and prosperous life for humans, and a serious responsibility in protecting and protecting the environment for He is in charge of the current and future generations (Amir Rajmand, 2014, p. 344).

This declaration also stipulates in its second principle that the natural resources of the earth, including water, air, plants and natural ecosystems, must be protected and maintained through careful planning and proper management for the benefit of the present and future generations. become The World Charter of Nature, which was approved by the United Nations General Assembly in 1982, is one of the human rights documents that deals with the issue of maintaining a healthy environment. This charter presents the rights and duties arising from the necessity of protecting the environment and considers man as a part of nature and considers his life as dependent on it, and therefore, individuals and governments have responsibilities in the direction of protecting the environment. It considers nature and its improvement (Basiri, Najafi, 1389, p. 72).

In the framework of well-known international human rights documents such as the Universal Declaration of Human Rights, the Covenant of Civil and Political Rights and the Covenant of Economic, Cultural and Social Rights, the right to a healthy environment and the need to protect and preserve the environment are implicitly confirmed. They give In fact, in the framework of these documents, some existing human rights such as the right to life have been taken into consideration and many lawsuits based on the right to life regarding the environment have been raised at the national and international levels.

## **2-2- The relationship between human rights and the environment**

The right to the environment reflects the sublime and basic values such as the right to life, the right to health and the right to live with a standard, and with the prerequisites for the continuation of the life of the current generation and future generations, such as sustainable development. It has a close and organic connection. The preservation of human beings and the continuation of human life in a safe environment free from war and violence is one of the goals and issues of the United Nations. Supporting the improvement of the environment directly stems from the vital need to protect human life, ensure its quality and conditions and to guarantee the inevitable preconditions for the care of human dignity and happiness and the development of human personality (Pathak)., 1992, p209.

Degradation of environmental quality is a serious threat to human survival; Therefore, respect for human rights has a direct and close relationship with the protection and protection of the environment. Because human life and the continuity of his life as well as the quality of his life depend on the health and vitality of the environment. Since the human species is exposed to extinction and destruction in an unhealthy and polluted environment, therefore, for the survival of the human race, the environment must be supported.

Regarding the relationship between human rights and the need to protect and preserve the environment, various opinions have been presented in such a way that it is difficult to summarize them. Fitzmaurice has identified three schools of thought in this regard (Fitzmaurice, 1999, p611). From another point of view, the existence of this right or its appearance is highly questionable, and finally, the third point of view is the belief that the right to a healthy environment can be derived from other parts of human rights such as the right to life, the right to health, and the right to information. and recognition.

## **3-2- Recognition of environmental rights as public rights**

The right to the environment reflects basic sublime values such as the right to life, the right to health, the right to live with a standard, and the prerequisites for the continuation of the life of the current generation and future generations, such as sustainable development, are closely and organically

connected. has it. This necessity is also evident in the aspects of human rights, the right to the environment, therefore, in this regard, as one of the manifestations of solidarity rights, it obliges the human society to comply with it (Qadir, 2014, p. 31). This degree of importance indicates the special position of environmental rights, on the other hand, it indicates its potential importance in the legal system of different countries. The right to the environment, as a basic human right, is the most developed part of the rights of solidarity in the current situation and has surpassed other rights of solidarity. One of the characteristics of the right to the environment is to create rights and obligations for everyone, which means that both governments are entitled and obligated, and individuals, both real and legal, have rights and obligations (Hosseini, Mohammadi, 2016, p. 18).

At the global level, considering the role of soft rules in the development of international environmental law, it can be said that environmental law is in the initial stage of international law. It can be argued that the right to the environment is a prerequisite for other human rights because in order for people to benefit from these rights, it is assumed that they have minimum health and well-being. In this way, the right to enjoy a healthy environment can be found in the most fundamental right known to mankind, that is, the right to life. In other words, what is the basis for benefiting from other rights is the right to a healthy environment (Hairi Isfahani, Mashhad, 1401, p. 146)

### . 3- Examining the dimensions and position of the right to health

In this topic, we examine the diversity of dimensions and the position of the right to health in human rights documents.

#### **1-3- Diversity of dimensions and areas related to health rights**

Another factor that adds to the difficulty of defining the right to health is the existence of various dimensions for health and various fields that are related to health. In international documents, it is generally mentioned about physical and mental health and sometimes about spiritual and social health. Even if there is relative agreement about physical health, it is very difficult to find a consensus on other aspects of health. It is possible that a person is physically strong and resistant to disease and has the ability to fight physical problems and other dimensions of his physical environment, but he is considered unhealthy in terms of his mental state. It should be noted that there is no single and clear criterion for determining mental health. For example, some have said that a person is mentally healthy if he has good logical behaviour and function. Others believe that a mentally healthy person is someone whose behaviour is the same as the majority of his peers (S. Raber, 2010, p. 544).

Very diverse areas are involved in the realization and continuation of this situation and ability on the one hand and influencing and threatening it on the other hand; First: This human condition is dependent on preconditions for preservation and continuity. A healthy environment, healthy drinking water, healthy nutrition, healthy working and professional conditions, cleanliness and hygiene are related to other human rights: the right to life, the right to food, housing and clothing, the right to freedom of speech and access. To information, right to a job and right to education.

Secondly: Health is a very fragile and shaky state that is always under threat and damage. This issue requires preventing or reducing threatening factors such as environmental pollution. On the other hand, the need to restore health after being infected with threatening factors necessitates the existence of facilities and medical care. Therefore, it will be more difficult to define the right to health in a way that distinguishes it from neighbouring and related rights and includes areas that are directly related to health.

When the phrase "right to health" is defined as an independent human right recognized in international legal documents, it should be noted that health in this phrase cannot be taken exactly in the same usual and conventional sense. That is, the definitions of philosophers, public health authorities, cultures, encyclopedias, and medical systems cannot be considered as the criteria of a legal principle that can be applied in certain situations. This kind of general and broad definition in fact indicates a goal that the efforts and resources of the governments should be used to realize, and it should be considered as a beacon by the politicians. What is needed in the science of law is to have criteria for determining the right to health, so that we can determine exactly what obligations

the governments have in providing services to promote the right to health, and how this can be done if they are not fulfilled. He proved the duties and placed a responsibility on the shoulders of the government (Al-Kajbaf, 1392, p. 147).

### **2-3- The position of the right to health in international human rights documents**

Many international, regional and national human rights documents have recognized the right to health as one of the basic human rights, which can be summarized as Article 55 of the United Nations Charter, Article 25 of the Universal Declaration of Human Rights. Article 12 of the Covenant of Economic, Social and Cultural Rights and General Opinion No. 14 of the Committee of Economic, Social and Cultural Rights as a supervisor of the implementation of the provisions of the Covenant in the field of the right to health, the activities of the Human Rights Commission and subsequently the Human Rights Council, as well as the efforts The World Health Organization mentioned the right to health.

On May 11, 2000, the Economic, Social and Cultural Rights Committee issued General Interpretation No. 14 regarding the right to the highest attainable level of health. The general purpose of the committee's opinion is to provide assistance and assistance to the member countries of the covenant and its implementation and fulfilment of obligations, and their reporting. The general interpretation of the committee consists of several preliminary points and five parts. The preliminary points of the committee's opinion can be summarized as follows:

1- The right to health is a fundamental human right and is necessary and unavoidable for the exercise of other human rights. Every human being has the right to enjoy the highest attainable level of health leading to a life with dignity.

2- The right to health has a special place in many international documents.

3- The right to health has a close and tight connection with other human rights included in the Charter of Human Rights and depends on their realization. These rights related to health include the following: right to food, housing, job, education, human dignity, life, non-discrimination, equality, prohibition of torture, privacy, access to information and freedom of assembly, assembly and movement. These rights and other rights and freedoms are integral parts of the right to health.

4- The right to health is not limited to the right to health care, and the express words of Article 12 of the Covenant indicate that this right includes a wide range of socio-economic actions that expand the conditions in which people can lead a healthy life. The right to health has main components such as food, nutrition, housing, access to safe and potable drinking water, hygiene and cleanliness, safe and healthy working conditions, and a healthy environment (Al-Kajbaf, 2012, p. 151).

4- The relationship between the right to health and environmental rights and their impact on human life and their relationship from the point of view of laws

In this topic, the synergism of two rights is discussed and its impact on human life is examined, and finally, we examine the relationship between these two rights from the perspective of laws.

### **1-4- The relationship between the right to health and environmental rights and its impact on human life**

Health and hygiene exist only where there are sufficient resources according to human needs or where the working and living environment is free from health-threatening pollutants, pathogenic agents and physical hazards. Since humans are exposed to extinction and destruction in an unhealthy and polluted environment; Therefore, for the survival of the human race, the environment must be supported (Gormley, 1988, p32).

Since 1985, environmental health has received widespread attention from the world community. In the beginning, environmental health was only focused on the prevention of various infectious and contagious diseases, but gradually its scope was increased and issues such as "health" were also included in this domain. Environmental health pays special attention to environmental factors affecting human health and various diseases in the environment, natural factors polluting the environment such as water, air, geographical conditions and the like (Qasemi, 2014, p. 41).

It is obvious that physical and mental health cannot be imagined in a polluted and destroyed environment. The innumerable and direct impact of environmental damage on human health is now a matter without doubt, which has been confirmed by the research and achievements of various

sciences. Therefore, fulfilling the right to health by the existing people and the enjoyment of the said right by future generations requires having a healthy environment (Peace Group of the Human Rights Center, 2019, p. 261). Humans are not safe from the adverse effects and consequences of environmental damage, and damage to other plant and animal species and non-living parts of life also affects their fate. Man, like other species, is a sensitive being, and his body and soul, while delicate, have the ability to be vulnerable. The role of human physical and mental health in the preparation of correct human activities is obvious and that is why it is mentioned as a fundamental right. In developed countries, regarding the environment and health communication through air, water and other pollution in both working and living environments, it has been a long time since it has been taken into consideration.

Sustainable nutrition requires the rational use of natural resources and ecological reserves and clean production by humans. If the environment suffers a crisis of pollution or destruction, the future of human nutrition is at risk. Therefore, in order for humans to always have proper nutrition, the environment must be used correctly. On the other hand, feeding in a polluted, destroyed, unhealthy and unsanitary environment will be contrary to what is stipulated in the human rights documents (Mirzadeh, Sepehri Far, 2012, p. 49). The right to access to sufficient and safe water is one of the basic human needs for life. Although this right is not mentioned independently in human documents, it is fully inferred from some of their general provisions. The right to water, together with the right to life, the right to health and the right to nutrition, is the right to a healthy environment. Suitable and hygienic water will only be obtained in a healthy and hygienic environment. Therefore, the creation of pollution and destruction of the environment on a large scale causes the pollution of water resources, and as a result, the realization of the right to water is distorted. Therefore, it is necessary for everyone to benefit from the right to water and, as a result, the possibility of a sustainable life, that the environment is healthy and balanced, and in fact, the right to a healthy environment is respected.

#### 2-4- Examining the relationship between two rights from the perspective of laws

So far, many documents have been approved regarding the connection between the right to the environment and other human rights, especially the right to health, some of which are mentioned here. In the draft law of solidarity, the relationship between a healthy environment and health is accepted. Articles 15 and 16 of the draft commit the member states; Do not cause unfavourable changes to the natural conditions of life and take appropriate measures to prevent legal entities from causing severe damage to the natural conditions of life, to have a healthy environment with native biological balance. Regarding the right to a healthy environment, international specialized documents have been approved so far.

The first principle of the Stockholm Declaration states: "Human beings have the fundamental right to freedom, equality and suitable living conditions in an environment whose quality provides the possibility of living with dignity and happiness for humans; has and has a serious responsibility in supporting and preserving the environment for the current and future generations". This declaration notes that a healthy environment is essential for the exploitation and application of human rights.

The Rio Declaration is also one of the international documents in which human rights are related to the environment. Principles 1 and 10 of this declaration provide rules similar to the Universal Charter of Nature and are dedicated to the implementation of the principles related to the right to the environment and its protection (Abbasi, 2010, p. 447). Principles related to the above discussion can also be found in regional documents. In the European continent, the European Court of Human Rights has confirmed the right to a healthy environment with an expanded interpretation of Article 8 and Article 6 of the Convention (Giorgetta Sueli, 1993, p388). In the Americas, the additional protocol of 1988 to the American Convention on Human Rights regarding economic, social and cultural rights, in addition to dealing with the right to health and the right to food in articles 10 and 12, explicitly includes the right to satisfactory and fair working conditions in article 7. It has been identified in such a way that it does not harm health. According to Article 11 of the Protocol:

1- Every person has the right to live in a healthy environment and have access to basic public services.



2- The member states should support, protect and improve the level of the environment.

## **5- Conclusion**

Explaining the concept and content of the right to health by only paying attention to the literal meaning is not enough for reasons such as the existence of different dimensions for health, various areas related to health and various factors influencing it, and it is necessary to refer to the documents that define health as a right. have been identified, let's refer. In other words, due to the uncertainty in the definition of health and the influence of many factors on it, this right includes conditions that provide the possibility of a healthy life for people. In Iran, the constitution and many upstream documents have recognized this right as a fundamental right and have identified it in their legal system. In this regard, the government is obliged to consider a comprehensive plan or national policy to realize it and to create suitable conditions for the access of all people of the nation to the highest attainable standard of health and with appropriate policy and planning to criminal protection of pay this salary. A brief overview of environmental laws and regulations and a general study of environmental rights confirms that in today's world and in all countries, without exception, of course, with differences, the environment and natural resources are damaged due to incorrect actions and decisions and improper development. The procedure and some profit-seeking are exposed to severe pollution and irreparable destruction. The measures and arrangements that the world community has adopted since the 70s, especially since 1972 with the convergence and compilation of international and regional treaties, have reduced the severity of pollution and destruction. Although it is impossible to achieve a favourable and balanced environmental situation or to enjoy virgin nature, we can still hope to achieve sustainable development. And the implementation of environmental laws has been gradually trying to solve environmental problems and prevent environmental pollution and destruction, and they have been successful in many cases. In recent decades, a healthy environment has been recognized as a right for a better and healthier human life. Following this recognition, many documents and treaties have been approved to legalize and explain its dimensions. In the meantime, some principles and materials have examined the relationship between the right to a healthy environment and the right to health and health, and living in a healthy environment that leads to the benefit of physical and mental health is a human right. have known Due to the importance of protecting the environment from pollutants and its health, principles have also been approved to prohibit its pollution.

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