LEGAL QUEST TO UNDERSTANDING THE NEXUS BETWEEN INTERNATIONAL ENVIRONMENTAL LAW AND HUMAN RIGHTS: A NOVEL JOURNEY

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ABSTRACT

This article critically examined the nexus between international environmental law and human rights from a global perspective. The article adopted the doctrinal research methodology, with primary sources of information distilled from international conventions and treaties, while the secondary sources of information were drawn from journal articles and internet sources. The article found out that there is a need for a more robust and effective international legal framework to protect human rights and the environment, as well as a need for increased political will and resources to address these issues. In addition, it is important to recognize the intergenerational and global nature of environmental harm, and to take steps to ensure that future generations have access to a healthy and liveable planet. The article concluded that the nexus between human rights and international environmental law is complex and multifaceted; that there are several challenges that arise in this area, but there are also several potential solutions. The article made some salient recommendations such as the need for more robust international treaties and agreements that protect the environment and human rights, enhance capacity and resources, promote public participation, consider intergenerational justice and incorporate the concept of environmental justice amongst others.

***Key words**:* Nexus, International Environmental Law and Human Rights

INTRODUCTION

The nexus between international environmental law and human rights is a complex and evolving area of law, and there are a few key concepts that are important to understand.[1] It is important to recognize that human rights and environmental protection are not mutually exclusive concepts. In fact, they are deeply

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[1] S O Ogunrinde and J A Jegede, 'Polluter Pays Principle and the Cost of Environmental Pollution: A Nigerian Perspective' [2013] (4) (6) *Mediterranean Journal of Social Sciences* 551-555.

intertwined, as environmental degradation can have a profound impact on the enjoyment of human rights. Thus, many international environmental agreements, such as the Paris Agreement on climate change, include specific provisions on human rights. This recognition of the link between environmental protection and human rights has been increasing in recent years. Therefore, the concept of the 'right to a healthy environment' has gained increasing recognition in international law. This right is based on the recognition that a clean and healthy environment is essential for the enjoyment of other human rights, such as the right to life and health. Finally, it is important to recognize that the implementation of international environmental law can have an impact on the realization of human rights. For example, the non-enforcement of environmental regulations can lead to the displacement of communities, which can have negative impacts on their rights, especially with regard to climate change leading to climate refugees. It is important to consider the human rights implications of environmental policies and laws, and to ensure that they are implemented in a way that protects and promotes human rights.[2] The primary focus of this article is to undertake a legal quest in discussing the nexus between human rights and international environmental law.

HISTORY OF INTERNATIONAL ENVIRONMENTAL LAW

The origins of international environmental law can be traced back to the late 19th century, when the first international treaty on environmental protection was signed in 1873. This treaty, the Convention for the Protection of Birds Useful to Agriculture, was signed by 10 European countries and was the first international treaty to focus on the conservation of natural resources. However, it was not until the 20th century that the field of international environmental law began to develop in a more substantial way.[3]

One of the most important events in the history of international environmental law was the Stockholm Conference on the Human Environment, held in 1972.[4] This was the first global conference on environmental issues, and it resulted in the adoption of the Stockholm Declaration, which recognized that environmental issues are of international concern and should be addressed collectively. The Stockholm Declaration also laid the groundwork for many subsequent international environmental treaties, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Convention on Biological Diversity (CBD).

[2] (n 1).
[3] M N Shaw, *International Law* (8th edn Cambridge University Press 2017) 640-645.
[4] Ibid.

In the decades since the Stockholm Conference, international environmental law has grown significantly, with numerous treaties and other instruments addressing a wide range of issues, including climate change, biodiversity loss, and air pollution. International environmental law has also been increasingly recognized as an essential tool for promoting sustainable development and addressing global challenges.[5] Additionally, the international community has established several key institutions for advancing international environmental law, such as the United Nations Environment Programme (UNEP) and the Intergovernmental Panel on Climate Change (IPCC). These institutions have played a crucial role in promoting and implementing international environmental law.

The first stage, from the late 19th century to the 1970s, was characterized by the signing of early environmental treaties and the emergence of international organizations and institutions focused on environmental protection. The Stockholm Conference was a key moment in this stage, as it was the first global conference to explicitly focus on environmental issues. The second stage, from the 1970s to the early 1990s, was marked by a dramatic increase in the number of international environmental treaties, as well as increased cooperation between countries and international organizations on environmental issues. The United Nations Conference on Environment and Development also known as the Earth Summit, which held in 1992, was a major milestone in this stage, resulting in the adoption of the Rio Declaration and the Agenda 21.[6] The third stage, from the early 1990s to the present, has seen a growing emphasis on the linkages between environmental issues and other areas such as human rights, economic development, and trade. This stage has also been characterized by the emergence of new environmental challenges, such as climate change and the degradation of the oceans. International environmental law has also become more complex and sophisticated, with a greater focus on implementation and enforcement. One example of this is the Paris Agreement on climate change, which entered into force in 2016 and has a complex and comprehensive set of provisions for its implementation.

The development of international environmental law has been a complex and ever-changing process, but it has made significant progress in addressing environmental challenges and protecting the planet for future generations. The law is constantly evolving, and it is likely that we will see even more changes and developments in the years to come.[7] The history of human rights can be traced back to the ancient world, with some of the earliest examples of human rights principles found in the Code of

[5] Ibid.
[6] H S Shat, 'Oil Pollution and Corporate Liability in Nigeria [2010] (3) *Nasarawa State University Law Journal* 106-115.
[7] Ibid.

Hammurabi (c. 1754 BCE) and in the Cyrus Cylinder (c. 539 BCE). However, it was not until the Age of Enlightenment that human rights began to be codified and recognized in a systematic way. The Magna Carta (1215) and the English Bill of Rights (1689) are early examples of human rights documents.[8]

The modern human rights movement gained momentum in the 18th and 19th centuries, with the American Declaration of Independence (1776) and the French Declaration of the Rights of Man and of the Citizen (1789) being two important documents in this regard. In the 20th century, human rights were enshrined in international law through the Universal Declaration of Human Rights (1948), and subsequent treaties and declarations. These documents have laid the foundation for the protection of human rights around the world.[9]

Today, human rights are recognized as fundamental to a just and democratic society and are universal and inalienable. They have been widely codified in international law and are monitored and enforced by various international organizations. However, there are still challenges in the protection of human rights, such as in countries with authoritarian regimes or in situations of conflict or crisis. There are also ongoing debates about the scope and content of human rights, and how best to promote and protect them. Despite these challenges, human rights have made significant progress in the past centuries and continue to be a vital part of the global legal and political landscape.[10]

The first international environmental convention; the Convention on Wetlands of International Importance, was adopted in 1971 and is now known as the Ramsar Convention. The Convention has a total of 31 articles, which cover issues such as the definition of wetlands, the establishment of wetland sites, the role of the Ramsar Secretariat, and the financing of the convention.

The second major international environmental convention is the Vienna Convention for the Protection of the Ozone Layer, which was adopted in 1985 and has 29 articles. The Convention covers issues such as the identification and control of ozone-depleting substances, the monitoring of ozone depletion, and the cooperation of countries in implementing the Convention.

The third major international environmental convention is the Montreal Protocol on Substances that Deplete the Ozone Layer, which was adopted in 1987 and has 32 articles. The Montreal Protocol is the first global treaty that aims to reduce the production and consumption of ozone-depleting substances. The Protocol has been successful in phasing out these substances and has helped to protect the ozone layer.

[8] Ibid.
[9] M Polinsky and S Shavell, 'Punitive Damages: An Economic Analysis' [1998] 3 *Harvard Law Review; 873.*
[10] Ibid.

Finally, the most recent and largest international environmental treaty is the Paris Agreement on Climate Change, which was adopted in 2015 and has 32 articles. The Paris Agreement is a global effort to combat climate change by limiting global warming.[11]

Further, enquiry has also been made to the African Charter on Human and Peoples Right.[12] It offers a solution to the non-justiciability of the right to a protected environment under the Nigerian constitution. The charter is an amalgam of the existing generations of human rights by making provisions for certain political and civil rights, collective social and economic rights and the right to development which embraces among others, the right to security and the right to a general satisfactory environment.

In Nigeria, the African Charter on Human and Peoples' Rights has been enacted as a local law titled African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act,[13] which has now become part of the local laws in Nigeria. Article 24 of the Charter specifically provides that 'All peoples shall have the right to a general satisfactory environment favourable to their development.' However, it is doubtful if the charter can be used to elevate environmental rights from their non-justifiable status to justiciable rights.[14] Therefore, it may be said that while there is no constitutional right in Nigeria to a clean and healthy environment. The right to enforce such rights through the judicial process is available individually through the constitution of Nigeria and indirectly under the international treaties and conventions signed and ratified by Nigeria. Therefore, it is indisputable that the enforcement and indeed the litigation of environmental rights and claims in Nigeria will remain an uphill task and herculean task to litigants or aggrieved persons unless urgent steps are taken to devise adequate legal mechanisms to protect man and the environment from hazardous and negative effects of modern technology and civilization.[15] Perhaps, nowhere else are reliable and realistic environmental policies and legal machinery for the protection and promotion of a sustainable environment for human rights development more desirable than in Nigeria which, over the years, has experienced grave abuses of human rights and wanton disregard for lives and properties.

[11] M Polinsky and S Shavell, 'Punitive Damages: An Economic Analysis' [1998] 3 *Harvard Law Review; 873.*

[12] Cap LFN, 1990.
[13] Cap LFN, 1990.
[14] *Oshevire v British Caledonian Airways Ltd* [1996] 7 NWLR 98.; *Abacha v Fawehinmi* (2000) 6 NWLR 228.
[15] O Awolowo, 'Environmental Rights and Sustainable Development in Nigeria' [2015] (35) *Journal of Law, Policy, and Globalization* 20-25.

CONCEPTUAL CLARIFICATION

International Environmental Law

International environmental law is a branch of international law that deals with the protection and management of the environment and natural resources, both at the global and national level. It includes international treaties, customary international law, and general principles of law that relate to the protection and management of the environment[16]. The core goal of international environmental law is to promote sustainable development and ensure that future generations can enjoy a healthy and liveable environment. Some of the key issues addressed by international environmental law include climate change, biodiversity loss, air pollution, water pollution, and land degradation.[17] In addition, international environmental law also addresses the relationships between states, non-state actors, and individuals with respect to the environment. It also aims to address issues of intergenerational equity and to promote justice and equality between developed and developing countries in the global environmental context. To achieve its goals, international environmental law relies on a variety of instruments, such as international treaties, protocols, declarations, soft law instruments, and national and local legislation. While there is no single definition of international environmental law, it is generally agreed that it encompasses all legal instruments that seek to protect and manage the environment, both globally and locally.[18]

Human Rights

According to the Stanford Encyclopaedia of Philosophy, 'rights structure the form of governments, the content of laws, and the shape of morality as it is currently perceived.'[19] Human rights constitute a set of norms governing the treatment of individuals and groups by states and non-state actors on the basis of ethical principles regarding what society considers fundamental to a decent life. These norms are incorporated into the national and international legal systems, which specify mechanisms and procedures to hold the duty bearers accountable and provide redress for alleged victims of human rights violations.[20] Legal Positivists, regard human rights as resulting from a formal norm-creating process, by which we mean an authoritative formulation of the rules by which a society (national or international) is governed.[21]

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[16] M N Shaw, *International Law* (8th edn Cambridge University Press 2017) 640-645.
[17] (n 16).
[18] S P Marks, *Human Rights: A Brief Introduction* (Harvard University Centre for Health and Human Rights 2016)1.
[19] T U Akpoghome and S M Brenda, 'Gender Based Violence: The Dangers and Effects Harmful and Unhealthy Practices Against Woman Rights' [2010] (47) (5) *Journal of Private and Comparative Law*; 150-155.
[20] S P Marks, *Human Rights: A Brief Introduction* (Harvard University Centre for Health and Human Rights 2016)1.
[21] (n 20).

Human rights are the basic rights and freedoms that all people are entitled to, simply by virtue of being human. They are often referred to as 'inalienable rights', meaning that they cannot be taken away or given up. They are often expressed in law through international treaties, such as the Universal Declaration of Human Rights (UDHR) and are protected by national and international legal systems. Human rights are often divided into different categories, including civil and political rights, economic and social rights, and cultural and environmental rights. Civil and political rights include the right to life, liberty, and security of persons, the right to freedom of expression and opinion, and the right to freedom of assembly and association. Economic and social rights include the right to work, the right to social security, and the right to education. Cultural and environmental rights include the right to a healthy environment, the right to participate in cultural life, and the right to enjoy one's own culture. Human rights are an important part of international law, and they play a vital role in protecting individuals from discrimination, oppression, and abuse. They are also essential for ensuring that people can participate in and benefit from the economic, social, and cultural life of their communities.

Environment

The Black's Law Dictionary,[22] defined environment as the totality of physical, economic, cultural aesthetic and social circumstances and factors which surround and affect the quality of people's live; the surrounding conditions, influences or forces which influence or modify.

This definition was quoted with judicial approval by the Supreme Court in the case of *Attorney-General of Lagos State v Attorney-General of the Federal Republic of Nigeria and 35 Ors.*[23] In the same vein, environment may be defined as a combination of water, air, land, flora and fauna that inhabit in water and on land, the inorganic and organic matter, the atmosphere and the interplay, interaction and the relationship that exist among them.

Puja defined environment as anything that is immediately surrounding an object and extending a direct influence on it.[24] He went further to say that environment refers to those things or agencies which though distinct from us, affect our lives or activities.[25] He also stated that the environment mainly consists of atmosphere, hydrosphere, lithosphere, and biosphere.

[22] B A Garner, *Black's Law Dictionary* (6th edn USA: West Publishing Co. Ltd 1991) 534.
[23] (2003) FWLR (Pt 168) 909, 946.
[24] M Puja, 'Meaning, Definition and Components of Environment'. www.yourarticlelibrary.com accessed 25 January 2021.
[25] (n 3).

Environmental Protection

This is the practice of protecting the natural environment by individuals. Organizations and governments.[26]Its objectives are to conserve natural resources and the existing natural environment and, where possible, to repair damage and reverse trends.[27] Environmental protection is a global issue with a plethora of protective legislation, enacted as transnational and national regulations and guidelines, aimed at sustainable use of water, soil, air, and biomass.

Also, environmental protection refers to any activity to maintain or restore the quality of environmental media through preventing the emission of pollutants or reducing the presence of polluting substances in environmental media.[28] It may consist of changes in characteristics of goods and services, changes in consumption patterns, changes in production techniques, treatment or disposal of residuals in separate environmental protection facilities, recycling, and prevention of degradation of the landscape and ecosystems. This principle involves holding the polluter liable for compensatory damages to all the victims of his deleterious activities in the environment[29].

Environmental Justice

This is a social movement and a philosophy that is aimed at the equitable distribution of economic benefits and burdens and the procedures that determine those distributions. It is primarily focused on equitable treatment and significant participation of impoverished, marginalized local communities in the formulation of environmental policies and the use and conservation of natural resources such that they do not bear more than their equitable share of environmental harms.[30]

APPRAISAL OF INTERNATIONAL LEGAL INSTRUMENTS ON HUMAN RIGHTS

Universal Declaration on Human Rights, 1948

[26] Environmental Protection Dictionary Definition <yourdictionary.com>accessed 24 January 2021.
[27] The Law Dictionary, 'Environmental Protection' www.thelawdictionary.org/environmental-protectionaccessed 24 January 2021.
[28] Glossary of Environment Statistics, 'Studies in Methods' Series F, No. 67, New York United Nations.
[29] Section 61 of Environmental Impact Assessment Act, 1992.
[30] D N Scott, 'What is Environmental Justice' [2014] (10) (16) 1; US Environmental Protection Agency of Environmental justice, 2000.

The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly on December 10, 1948. It was a result of years of negotiations following the atrocities of World War II. The Declaration set out 30 articles of human rights that all people around the world should enjoy. It was the first time that fundamental human rights had been codified in such a way, and it has become a foundational document for international human rights law[31].

There are several articles in the UDHR that can be considered relevant to environmental protection and the enforcement of human rights in this area. These include article 1, 'All human beings are born free and equal in dignity and rights.' This article establishes the basic principle that all people have an inherent right to dignity and respect, and that no one should be discriminated against based on their race, gender, religion, or other characteristics; article 12, 'No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.' This article guarantees individuals the right to privacy and protection from arbitrary interference in their lives; article 25, 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.' This article sets out the right to an adequate standard of living, which includes access to clean water, air, and a healthy environment; article 28, 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.' This article recognizes that human rights must be protected by governments and institutions at the national and international level.[32]

Stockholm Declaration on Human Environment and Development, 1972

The Stockholm Declaration on Human Environment and Development was adopted by the United Nations Conference on the Human Environment in Stockholm, Sweden, in 1972. It was the first international treaty that addressed environmental concerns, and it included several principles related to environmental protection. These principles include right to a healthy and sustainable environment, responsibility of countries to protect the environment and manage natural resources, need for environmental impact assessments, and need for cooperation and solidarity between countries in protecting the environment.

The Stockholm Declaration included several key sections related to enforcement of human rights and environmental protection such as principle 21 which provides that

[31] UDHR, 1948.
[32] UDHR, 1948.

> states have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 22 provides that 'states shall cooperate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control.[33]

Rio Declaration of the United Nations Conference on Human Environment and Development, 1992

The Rio Declaration on Environment and Development was adopted at the United Nations Conference on Environment and Development (UNCED), also known as the Earth Summit, in Rio de Janeiro, Brazil, in 1992.[34] The Declaration reaffirmed many of the principles from the Stockholm Declaration, but it also included some new principles related to sustainable development.[35] This includes principle 1, 'human beings are at the centre of concerns for sustainable development.'[36] 'They are entitled to a healthy and productive life in harmony with nature.' Principle 2 provides that 'states have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.' Principle 3 provides that 'The right to development must be fulfilled to equitably meet developmental and environmental needs of present and future generations.' Principle 4 provides that 'In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.'[37]

One challenge with the Rio Declaration is that it is not legally binding, which means that countries are not required to implement its principles. This has led to inconsistent implementation of the Declaration's principles by different countries. Another challenge is that the Rio Declaration does not provide specific guidance on how to achieve sustainable development, which has led to differing interpretations of its goals

[33] Stockholm Declaration on Human Environment and Development, 1972.
[34] Rio Declaration of the United Nations on Human Environment and Development, 1992.
[35] Ibid.
[36] Ibid.
[37] Rio Declaration of the United Nations on Human Environment and Development, 1992.

and principles. Despite these challenges, the Rio Declaration has played an important role in raising awareness of the link between human rights and environmental protection, and it has inspired many countries to take action to protect the environment. The Rio Declaration is also a starting point for future agreements and initiatives to promote sustainable development.

United Nations Framework Convention on Climate Change, 1992

The United Nations Framework Convention on Climate Change (UNFCCC) was adopted at the Rio Earth Summit in 1992. It is an international treaty that sets out a framework for global action on climate change.[38] The main goal of the UNFCCC is to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous human interference with the climate system.[39] The UNFCCC was the first international treaty to address climate change, and it has been ratified by 195 countries. The Kyoto Protocol, which was adopted in 1997 and entered into force in 2005, is an important supplement to the UNFCCC.

There are several relevant sections of the UNFCCC that relate to enforcement of human rights and environmental protection. These include article 3.4, 'the Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, considering that economic development is essential for adopting measures to address climate change.' This article highlights the importance of integrating climate change action with sustainable development goals.

Article 4.1 provides that 'all parties shall pursue policies and measures that protect the climate system, taking into account their common but differentiated responsibilities and respective capabilities and their social and economic conditions.' This article emphasizes that countries have different levels of responsibility and capacity to address climate change, and that social and economic conditions should be considered when developing policies and measures. Article 4.7 provides that 'the extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology.'[40]

[38] UNFCCC, 1992, art 2-8.
[39] Ibid art 2-30.
[40] UNFCCC, 1992, art 10-15.

Kyoto Protocol to the United Nations Framework Convention on Climate Change, 1997

The Kyoto Protocol was adopted in 1997 as a supplement to the UNFCCC. It is a legally binding agreement that sets out specific targets and timetables for developed countries to reduce their greenhouse gas emissions.[41] It is the first international treaty that legally binds developed countries to reduce their emissions.[42]

The Kyoto Protocol entered into force in 2005 and has been ratified by 192 countries. The US withdrew from the treaty in 2001, but later rejoined under the Obama administration in 2016. Under the Kyoto Protocol, developed countries are required to reduce their emissions by an average of 5% below 1990 levels by the period 2008-2012. The Protocol also includes a 'flexibility mechanism' that allows countries to meet their targets by investing in projects that reduce emissions in other countries. This includes the Clean Development Mechanism (CDM), which allows developed countries to invest in projects that reduce emissions in developing countries. One of the key challenges of the Kyoto Protocol is that it does not include all major emitters, such as China and India. These countries have argued that they are still in the process of developing and should not be subject to the same emissions reductions targets as developed countries.

International Covenant on Civil and Political Rights, 1966

The International Covenant on Civil and Political Rights was adopted by the UN General Assembly in 1966 and entered into force in 1976. It was largely based on the Universal Declaration of Human Rights (UDHR), which was adopted by the UN in 1948.[43] While the UDHR is a non-binding resolution, the ICCPR is a binding treaty. The ICCPR was developed in part, as a response to the atrocities of World War II, including the Holocaust. It aims to protect individuals from abuses of power by governments and other institutions, and to promote human rights. It has been influential in the development of human rights law and has been used to hold governments accountable for violations[44].

There are several key articles in the ICCPR that relate to enforcement of human rights and environmental protection. These include article 2, which states that 'each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race,

[41] Kyoto Protocol, 1997, art 12.
[42] Ibid.
[43] ICCPR, 1966.
[44] ICCPR, 1966.

colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.' This article establishes that the rights protected by the ICCPR apply to all individuals, regardless of their background.

There are several challenges that can arise in relation to the enforcement of human rights and environmental protection. One challenge is that countries may not fully implement the treaty obligations set out in the ICCPR, either through inaction or through active obstruction.

Aarhus Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters, 1998

The Aarhus Convention, formally known as the United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters, is an international treaty that was adopted in 1998 and entered into force in 2001. It applies to the 47 member states of the United Nations Economic Commission for Europe (UNECE) and is the first treaty that establishes legally binding obligations relating to environmental democracy.[45]

The Aarhus Convention was developed in response to growing concerns about the lack of public participation in environmental decision-making. It aims to ensure that the public has access to information about environmental issues, the opportunity to participate in decision-making on these issues, and the ability to seek justice if their rights under the Convention are violated.[46] The Aarhus Convention has been influential in promoting transparency and public participation in environmental decision-making and has been cited as a model for similar treaties in other regions. However, there have been challenges in implementing the Convention, particularly in relation to access to justice.[47]

The Aarhus Convention contains a number of articles that are relevant to the enforcement of human rights and environmental protection, including article 6, which provides that 'each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information related to the environment has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of this Convention, has access to review procedures before a court of law or another independent and impartial body established

[45] Aarhus Convention on Access information, Public Participation in Decision Making and Access to Justice in Environmental Matters, 1998.
[46] Ibid.
[47] Ibid.

by law.' This article ensures that individuals have a right to access information and to have their concerns heard through an independent and impartial review mechanism.

Article 9 provides that 'each Party shall, within the framework of its national legislation, ensure that members of the public concerned: (a) having a sufficient interest or, alternatively, being affected by, or having their interests affected by, the environmental decision, have the opportunity to participate during the preparation of the environmental decision, and at an early stage; (b) may participate in, and express comments and opinions on, the environmental decision through written submissions and, where appropriate, orally, and that due account shall be taken of any such submissions.' This article ensures that individuals have the right to participate in environmental decision-making and to have their comments and concerns considered.

One of the key challenges in implementing the Aarhus Convention is that it does not have a strong enforcement mechanism. There is no specific body that oversees the implementation of the Convention, and the mechanisms for ensuring compliance are largely voluntary. This has led to concerns that some countries are not fully complying with their obligations under the Convention.

Convention on Long Range Transboundary Air Pollution, 1979

The Convention on Long-Range Transboundary Air Pollution (CLRTAP) is a multilateral treaty that was adopted in 1979.[48] It addresses the problem of transboundary air pollution, which is caused by pollutants that are emitted in one country but have adverse effects on the environment and human health in another country. The CLRTAP was developed in response to growing concerns about the health and environmental impacts of air pollution, particularly in Europe.[49]

The CLRTAP contains several articles that are relevant to the enforcement of human rights and environmental protection, including article 10 which states that 'each Party shall endeavour to reduce its emissions of sulphur and nitrogen compounds so as to contribute to the protection of the environment and human health and to reduce damage to crops and forests.' This article sets out the general principle that countries should take steps to reduce emissions of pollutants that contribute to air pollution.

Article 13 provides that 'each Party shall take appropriate steps to control the level of emissions of air pollutants not controlled by the Protocols by means of national or international measures.' This article requires countries to take steps to control emissions of air pollutants, even if they are not covered by the

[48] CLRTAP, 1979.
[49] Ibid.

protocols. Article 16 states that 'each Party shall endeavour to provide information on its activities in respect of the implementation of the Convention and the Protocols.' This article requires countries to share information on their efforts to reduce air pollution, which can help to ensure transparency and accountability. Article 17 provides that 'each Party shall encourage research around air pollution.' This article recognizes the importance of scientific research in developing effective solutions to air pollution.

There are several challenges in implementing the CLRTAP. One challenge is that many of the measures required by the CLRTAP are voluntary, which can lead to inconsistent implementation. Additionally, some countries may be reluctant to reduce emissions if it means a reduction in economic activity. Another challenge is that the CLRTAP does not have a strong enforcement mechanism, and countries may not face consequences for failing to meet their obligations. Despite these challenges, the CLRTAP has been successful in reducing air pollution in many countries and has served as a model for other international treaties on air pollution. It has also helped to improve scientific understanding of air pollution and its effects.

NEXUS BETWEEN INTERNATIONAL ENVIRONMENTAL LAW AND HUMAN RIGHTS

The nexus between international environmental law and human rights is a complex and multifaceted relationship, but there are a few key points that are worth exploring in more depth. One key issue is the right to a clean and healthy environment. While this right is not explicitly recognized in all international environmental treaties, it is increasingly being recognized as a fundamental right, and one that is essential for the protection of other rights. For example, a healthy environment is necessary for the enjoyment of the right to life, the right to health, and the right to an adequate standard of living. In addition, a clean environment is essential for the survival of many indigenous communities whose traditional way of life is intimately connected to the natural environment. For these communities, the right to a clean environment is not just an abstract concept, but a matter of life and death.[50]

Some of the prominent international decisions on right to clean and healthy environments include the case of *Lopez Ostra v Spain,*[51] where the European Court of Human Rights held that the State had violated the applicant's right to a clean environment as guaranteed by article 8 of the European Convention on Human Rights. In the case, the Applicant, Ms. Lopez Ostra, lived in a town in Spain where a nearby

[50] A O Okukpon, 'The 1999 Constitution of Nigeria and the Protection of the Right of Citizens to a Clean Environment in L. Atsegbua, (ed), Selected Essays on Petroleum and Environmental Laws' (Benin: New Era Publications, 2000) 32.

[51] EU Court of Human Rights, Application No. 16798/90.

waste-treatment plant was emitting toxic fumes into the air. The fumes made it difficult for her to open her windows and doors, and she suffered from respiratory problems as a result. Despite her complaints, the State did not take any action to address the problem. Therefore, the Court found that the State had breached its positive obligation to protect the applicant's right to a clean and healthy environment.

Furthermore, the case of *Ceasar v Trinidad and Tobago*,[52] involved a claim by a community of fishermen in the fishing village of Matura, who alleged that the development of an oil and gas facility nearby had affected their livelihoods and access to a clean environment. The fishermen claimed that the facility had caused noise and light pollution, as well as air and water pollution. They also alleged that the development had damaged their traditional fishing practices and led to the displacement of their community. The Court found that the development of the oil and gas facility had indeed had a negative impact on the environment and the livelihoods of the fishermen.

Similarly, in the case of *Budayeva v Russia*[53]the European Court of Human Rights found that the Russian government had failed to take adequate measures to protect the applicants, a group of villagers in southern Russia, from the risks posed by a nearby mudflow. The mudflow, which had been triggered by a landslide caused by heavy rainfall, caused extensive damage to property and infrastructure, as well as loss of life. The applicants argued that the government had failed to take adequate measures to warn them of the risk, evacuate them, or protect their property from the mudflow. The Court found that the Russian government had indeed violated the applicant's rights under the European Convention on Human Rights, including the right to life and the right to respect for private and family life.

Also, another key issue is the right to information and participation. For people to be able to protect their rights and hold governments and businesses accountable, they need access to information about environmental issues and the opportunity to participate in decision-making processes. The right to information and participation is recognized in several international environmental treaties, including the UNFCCC and the CBD. However, in practice, many people around the world still do not have access to the information.[54]

An important example of the nexus between international environmental law and human rights is the case of climate change. Climate change is a global issue that has a significant impact on the environment and on human rights. The impacts of climate change include rising sea levels, more frequent and intense

[52] [2005] IACHR Series C, No. 123, Para 6-12.
[53] [2008] ECHR 15339/02.
[54] [2008] ECHR 15339/02.

extreme weather events, and the loss of biodiversity. These impacts have a wide range of negative effects on human rights, including the right to life, the right to health, the right to an adequate standard of living, and the right to culture. For example, rising sea levels can cause the displacement of communities, resulting in the loss of homes, livelihoods, and cultural traditions.[55] Extreme weather events, such as floods and droughts, can also cause widespread displacement and loss of property. The loss of biodiversity due to climate change can affect food security, as well as cultural practices and beliefs. In addition to these negative impacts on human rights, climate change also has a disproportionate impact on vulnerable groups, such as the poor, women, and indigenous peoples. This is because these groups often have fewer resources and less capacity to adapt to the impacts of climate change.[56] Therefore, climate change is a key example of how international environmental law and human rights are closely linked.[57]

CHALLENGES OF INTERNATIONAL ENVIRONMENTAL LAW AND HUMAN RIGHTS

There are several challenges that arise when it comes to the intersection of international environmental law and human rights. One key challenge is the lack of a clear definition of what constitutes a violation of the right to a clean and healthy environment. In addition, there is often a lack of resources and capacity within states to effectively implement international environmental law. Furthermore, there can be conflicts between the interests of economic development and the protection of the environment, which can make it difficult to find a balance between these competing interests. Lastly, enforcement of international environmental law is often challenging, as states may not have the necessary political will or resources to enforce these laws effectively. Another significant challenge for international environmental law and human rights is the lack of access to justice for those affected by environmental harm. For example, in many cases, people who are affected by environmental degradation, such as the effects of climate change, may not have the means to seek justice through the courts. This can be a result of a lack of legal representation or of the high costs of bringing a case to court. Additionally, it can be difficult for people to prove that they have been harmed by environmental degradation, as it can be difficult to establish a direct causal link between the harm and the actions of a particular state or actor[58].

[55] B Alderman and A E Flaron, 'Maternal Exposure to Neighbourhood Carbon Monoxide and Risk of Low Infant Birth Weight' [1907] (11) (12) Public Health Report; 410-414.
[56] Ibid.
[57] Ibid.
[58] B Alderman and A E Flaron, 'Maternal Exposure to Neighbourhood Carbon Monoxide and Risk of Low Infant Birth Weight' [1907] (11) (12) Public Health Report; 410-414.

CONCLUSION

In conclusion, the nexus between human rights and international environmental law is complex and multifaceted. There are several challenges that arise in this area, but there are also several potential solutions. There is a need for a more robust and effective international legal framework to protect human rights and the environment, as well as a need for increased political will and resources to address these issues. In addition, it is important to recognize the intergenerational and global nature of environmental harm, and to take steps to ensure that future generations have access to a healthy and livable planet.

RECOMMENDATIONS

Some recommendations that could help to improve the relationship between human rights and international environmental law are as follows:

1. Strengthen the legal framework: There is a need for more robust international treaties and agreements that protect the environment and human rights. For example, a new binding treaty on the right to a healthy environment could help to protect human rights and the environment in a more effective way.
2. Enhance capacity and resources: States and international organizations need to invest more resources in implementing and enforcing international environmental law. This includes providing funding for environmental justice initiatives and for legal aid for individuals and communities who are affected by environmental harm.
3. Promote public participation: It is important to ensure that people have a voice in decisions that affect their environment and human rights. This can be done through mechanisms such as environmental impact assessments, public hearings, and access to information.
4. Consider intergenerational justice: The impacts of environmental harm often affect future generations, and it is important to consider the needs of future generations when making decisions about the environment and human rights. This includes considering the concept of sustainable development, which aims to meet the needs of the present without compromising the ability of future generations to meet their own needs.
5. Encourage cooperation: It is important to promote cooperation between different countries, regions, and organizations to effectively address the challenges posed by environmental harm and human rights violations. This can be done through initiatives such as the UN Sustainable Development Goals, which aim to address environmental and social challenges in a holistic way.

6. Incorporate the concept of environmental justice: Environmental justice is the idea that everyone has the right to live in a clean and healthy environment, and that no one should be disproportionately affected by environmental harm. This concept can be incorporated into international environmental law to ensure that everyone's right to a healthy environment is protected, regardless of their social, economic, or political status.

7. Embrace the precautionary principle: The precautionary principle is the idea that when there is a risk of serious or irreversible damage to the environment or human health, measures should be taken to avoid or mitigate that risk, even if there is uncertainty about the extent of the risk. This principle can be used to guide decision-making in international environmental law.

8. Foster resilience: It is important to build resilience in the face of environmental harm. This includes increasing the ability of communities and ecosystems to adapt to and recover from environmental changes.