

Ecological and Human Rights Aspects of National and Local Decision-Making

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Abstract- Climate change, such as rising temperatures and changing weather patterns, has certain consequences associated with the loss of individuals' favorable physical and mental health or productivity. The authors mention some important factors such as extreme heat waves, air mass movement, changed precipitation patterns, and global warming, and their impact on the health status of Europe's population, namely increases in cardiovascular, respiratory and some infectious diseases. Consequences like worsening of food security, economic inequality and the situation of vulnerable groups have also been addressed. The article discusses the interconnectedness of environmental degradation and human rights violations as well as the international and European legal framework of the interrelationship between human rights and the environment. Emphasizing a rights-based focus, the article highlights the core position of national and local authorities in fostering environmental accountability while defending human rights. The article also touches upon the general social implications of climate change, i.e., how it is disproportionately impacting children, the elderly, and vulnerable groups. It examines how national and subnational governments can address these impacts through innovative policy, legal reform, and multi-level governance approaches. Examples include the Climate City Contract 2030 in Stockholm and throughout Europe, demonstrating the promise of cooperative and adaptive governance approaches to addressing sustainable development challenges. The relationship between the environment and human rights protection within the European Convention for the Protection of Human Rights and Fundamental Freedoms as a relevant part of international law is

discussed, as an attempt to contribute to the improvement of environmental protection on the national and local fronts. This study aims to holistically examine the interface between environmental law and protection of human rights based on an integration of historical, rational and comparative methods and analysis of statistical data. Leaning on national and international law regimes, the study aims to provide support in designing strategies to address the environmental and human rights challenges brought about by climate change. This approach centers on the requirement for a shared vision that unites sustainability and justice, equity and human dignity.

Keywords- climate change, ECtHR case-law, human rights, national and local decision-making.

I. INTRODUCTION

The crossroads of environmental protection and human rights has been a focal point of study, particularly with the exacerbation of climate change and its everlasting implications. The environmental crisis of the present times underscores the imperatives of effective legal regimes synthesizing ecological sustainability and protection of essential rights. National and local policy formulation are crucial here towards addressing issues of climate change while upholding human rights. Recognition of environmental rights as part of the 'third generation of human rights' is evidence of growing appreciation of the truth that there exists a connection between a clean environment and the practice of

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fundamental human rights like the right to life, health, and well-being. Path-breaking cases, i.e., *Verein KlimaSeniorinnen Schweiz v. Switzerland* [1] and *Duarte Agostinho and Others v. Portugal and 32 Others* [2], illustrate the way in which international human rights law has developed to respond to climate change and the social aspects of it. The cases make it essential that environmental interests be incorporated within human rights law to achieve just and sustainable options for current and future generations.

II. MATERIALS AND METHODS

The present article aims critically to analyze the interrelation between the environment and the human rights protection. The issue still needs further attention and research, especially after the 2024 ECtHR judgment in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*. Due to the sensitive nature of the issue, a complex methodology has been used, combining several approaches and including logical-analytical, teleological, historical and comparative methods. To achieve the goals of the research, the article also uses some statistical data collected from the official websites of European and national institutions, the observation and analysis of which allows the authors to reach scientifically based conclusions. The relationship between the environment and the protection of human rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms as a relevant part of international law is discussed, as an attempt to contribute to strengthening environmental protection at the national and local levels.

III. RESULTS AND DISCUSSION

A. Climate change

Climate change is affecting people's health in Europe primarily through recorded temperature increases and changing weather patterns. More frequent or intense natural disasters, as well as changes in air, water, food (in terms of quality and quantity), ecosystems, agriculture, and infrastructure, inevitably affect the health and well-being of individuals. Health challenges will continue to increase in the future and increase existing environmental health risks [3].

Climate change is directly related to the quality of the environment in general, and also to social infrastructure.

Climate change and related natural disasters affect the security of society. Security in the 21st century depends on a set of interdependent determinants such as economic development and food security, cultural dimensions, migration and mobility, armed conflict and geopolitical rivalry [4]. Some authors have even found a direct causal relationship and pathways between climate change and violent conflicts. Historical examples of collapses of empires, political upheavals and wars in connection with large-scale climate disturbances are pointed out [5], [6].

It should be borne in mind that critical factors known to contribute to armed conflicts within countries, such as low incomes and social inequality, are particularly

sensitive to climate change. Conflict and its impacts and consequences (such as damage to infrastructure and institutions, loss of natural and human resources, migration, and reduced opportunities) are generally exacerbated by climate change [4].

The Intergovernmental Panel on Climate Change proposes that poverty reduction strategies include climate change risks to ensure progress in health and access to safe water and sanitation, as well as other indicators of social and environmental status. In its 2014 report, the Panel concluded that “*the continuation of greenhouse gas emissions will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of widespread severe and irreversible impacts on people and ecosystems. Limiting climate change would require substantial and sustainable reductions in greenhouse gas emissions that could limit climate change risks*” [7].

In the announcement published in August 2021 of the Working Group of the Intergovernmental Panel on Climate Change, it is stated that greenhouse gas emissions from human activities correspond to approximately 1.1 °C of warming between 1850 and 1900, and on average over the next 20 years, global temperatures are expected to reach or exceed 1.5 °C of warming. At 1.5 °C of global warming, there will be more frequent heat waves, longer warm seasons and shorter cold seasons. However, at 2 °C of global warming, thermal extremes would more often exceed critical thresholds for agriculture and health [8]. Globally, according to the WHO forecast, climate change in the period 2030 - 2050 can cause mortality of about 250 thousand people per year due to malnutrition, malaria, diarrhea and heat stress [9].

Vulnerability to weather and climate change depends on the broader social and environmental context and level of exposure of populations, as well as their access to resources. Older people, children, outdoor workers and migrants, for example, are particularly vulnerable populations. Older people are the focus of a growing number of studies: their vulnerability stems from a complex mix of factors such as multiple chronic diseases, poverty, isolation, lack of access to transport and other mobility-related issues [10]. Children, in turn, are particularly vulnerable because of their physiological and cognitive immaturity and a greater likelihood of being exposed to climate change for a longer period. Extreme weather events can pose a threat to all stages of a child's development: as a fetus in the mother's body, as newborns, minors, adolescents [11].

The increase in global temperature by around 4 °C compared to the levels of the late twentieth century, combined with increasing demand for food, increases the likelihood of food insecurity on a regional and global scale [12]. In this sense, the number of malnourished children is expected to reach 138 million, including 3.7 million in Europe. While cereal yields may increase in some areas of the WHO European Region, more frequent extreme events such as droughts and floods in certain

areas may lead to a decrease in food production and an increase in malnutrition of vulnerable populations.

Southern Europe is likely to experience significant losses in food production (up to 25 % in the event of a temperature increase of up to 5.4 °C), while food production in some areas of northern Europe is likely to increase due to an extension of the growing season. Food safety and climate change need to be addressed in the context of sustainable development of agriculture and be included in national adaptation plans [13].

In a possible climate change scenario of an increase of 2.0-5.4 °C by 2050, agriculture is expected to be negatively affected by the changes. Crop yields will fall, production will be affected, food and meat prices will increase, and cereal consumption will decrease, leading to reduced calorie intake and malnutrition of children [14]. For this reason, the Second International Conference on Nutrition recognized the need to address the impacts of climate change on food security and nutrition – in particular on the quantity, quality and variety of food produced, taking appropriate action to address the negative effects [15].

B. Human rights and a broader legal context

Climate change should also be taken into account in the context of human rights. It is obvious that, in the context of natural disasters, it is hardly possible to speak of full respect for all human rights, but it is nevertheless then that respect for such rights as the right to life and the right to health become particularly important.

Nowadays, the environment is protected under international law through various treaties that govern specific environmental issues, such as climate change, pollution, loss of biodiversity, etc. Nevertheless, the first human rights documents—namely, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights—do not refer to the environment, as it was not part of the international agenda at the time. The same is true for the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, as they were also drafted well before the environmental issues became the concern of the international community [16].

Today it is commonly accepted that environmental rights belong to a so-called ‘third generation of human rights’ and that the environmental issues and human rights are interdependent [17], [18]. It should also be noted that the more recent regional human rights instruments, such as the African Charter on Human and Peoples’ Rights and the Arab Charter on Human Rights, do formulate a specific human right to a healthy environment. Moreover, nowadays it is quite obvious that rights relating to the environment have an inter-generational character [19].

It should be pointed out that the Paris Agreement, adopted on 12 December 2015, was the first

international environmental treaty that in its Preamble explicitly underlines the interrelation between climate change and human rights, stating that “*the parties should, when taking action to address **climate change**, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations ... and intergenerational equity*” [16].

In 2017, the Inter-American Court of Human Rights highlighted in its Advisory Opinion “*the existence of an undeniable relationship between the protection of the environment and the realization of other human rights, in that environmental degradation and the adverse effects of **climate change** affect the real enjoyment of human rights*” [20].

Tracing the development of the human rights concept over the decades—from the protection of individual rights to the protection of the rights of vulnerable groups—it should also be borne in mind that, among universal international instruments, only the Convention on the Rights of Persons with Disabilities contains a direct reference to natural disasters. Article 11 of the Convention states that “*States Parties shall undertake, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in risky situations, including military conflict, humanitarian and **natural disasters***” (authors’ emphasis) [21].

C. Recent judgements of the European Court of Human Rights (ECtHR)

As environmental concerns have become more important for the international community, national states and local authorities in the second half of the 20th century, the ECtHR case-law has gradually reflected the idea that human rights law and environmental law are mutually interrelated. An illustration of that is the contemporary situation where the Strasbourg Court’s case-law shows a wide range of environmental factors that may have an impact on individual rights. This development is in accordance with the Court’s insistence that the Convention is ‘a living instrument’ [16]. Therefore, the interpretation of the rights and freedoms is not fixed but can take account of the social context and changes in society. The Court has systematically linked its case-law to the main international environmental law standards and principles.

As it was mentioned before, the European Convention on Human Rights was not designed to provide a general protection of the environment as such and do not expressly guarantee a right to a safe, clean, healthy and sustainable environment [16]. Protection of environmental issues has been granted with the evolving ECtHR jurisprudence. However, the Strasbourg case-law slightly differs from a multitude of cases heard by various national and international jurisdictions. It should be noted

that the first court ruling in Europe was the Dutch ‘Urgenda judgment’ where the Supreme Court found that the Dutch State was liable for the dangerous consequences of climate change [22]. The reasoning of the judgment was based on Articles 2 and 8 ECHR.

Two recent cases reveal the Strasbourg Court’s vision towards the climate change issues. The first one is *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, where the Court discussed whether the ECHR applies to climate change issues [1]. On 9 April 2024, the European Court of Human Rights ruled for the first time whether governments have an obligation to combat the effects of dangerous climate change. According to the Court national governments have to take proper measures under Article 8 ECHR in order to achieve sustainable climate goals and to prevent the harmful pressure of climate change. It confirmed that inadequate national climate policies can violate the human rights as guaranteed in Articles 2 and 8 of the ECHR.

The Court noted that Switzerland has not adopted an adequate national legislation in regards to the limitation on CO₂ emissions, despite the fact that it has been encouraged to do so [23]. Although the Court stressed that the choice of climate policy measures falls within the wide margin of appreciation of the State, finally it concluded that the absence of any relevant domestic measure on behalf of Swiss authorities represents a breach of Article 8 ECHR. By a majority of 16 votes in the Grand Chamber, the Court ruled that the inaction of Swiss authorities had violated Article 8 ECHR [24]. However, there are voices from both academic and political circles that the decision could be even counterproductive while “*inventing new obligations on member states in relation to climate change...*” [25]. In his dissenting opinion judge Eicke describes that the majority has “*tried to run before it could walk*”. [26]

In the other climate case *Duarte Agostinho and Others v. Portugal and 32 Others* [2], the applicants put forward that the respondents (33 States) had not taken sufficient action on climate change and invoke the intergenerational issue. The six applicants are young Portuguese, aged between 10 and 23. They argue that the existing and future impacts of climate change are attributable to the respondent States and that, in particular, the effects of heat waves, wildfires and smoke from wildfires affect their lives, well-being and mental health, as well as the amenities of their homes [24]. In addition, the applicants argue that global warming primarily affects their generation and that, in view of their age, the potential infringement of their rights would be greater than it is for older generations. The applicants insisted that there was no adequate domestic remedy available to them, and this represents an exemption under Article 35 ECHR which requires all remedies under national law to be used.

The other important issue that the Court has discussed was about the extraterritorial principle. Since the claimants were Portuguese citizens, the capacity of Portugal as a defendant is not in doubt. However, with

regard to the other respondent States, the Court does not consider, however, that the principle of extraterritoriality should be applied [24]. The complaint against Portugal was declared inadmissible for non-exhaustion of domestic remedies. The Court noted that the Portuguese constitution explicitly recognised the right to a healthy and ecologically balanced environment. Moreover, this right is directly applicable in front of the domestic courts, and that the Portuguese legal system provides for adequate remedies, according to the ECtHR.

With the judgment, the Court in practice has tried to strike a balance between on the one hand, the human rights protection while combating climate change and on the other hand, preventing citizens from abuse with rights related to climate issues.

D. The case of Bulgaria: embedding environmental rights in the national policy and legal framework

In Bulgaria, as in other European countries, the environment is protected through the constitution. For example, the Bulgarian Constitution provides for the right to a “*healthy and favourable environment in accordance with the established standards and norms*” (Article 55) [27]. The same article proclaims vice-versa an obligation for the citizens to protect the environment. The Bulgarian Constitution states that underground resources, national roads, coastal beach front, forests and parks of national importance, etc. constitute exclusive state property and that the state exercises the sovereign rights in developing, utilizing, protecting and managing the continental shelf and the exclusive offshore economic zone, and the biological, mineral and energy resources therein (Article 18) [27]. The land as a basic national resource shall receive special protection by the state and the society (Article 21) [27]. The Environmental Protection Act ensures that anyone who culpably inflicts pollution or environmental damage on another shall be liable to indemnify the aggrieved party (Article 170) [27].

In Bulgaria the horizontal legislation in the field of environment conservation includes the Environmental Protection Act, Liability for Prevention and Remedying of Environmental Damage Act, and the Access to Public Information Act [28]. In addition, separate legal acts have been passed in main sectors such as air quality, waste management, water quality, nature conservation, chemicals and mine waste.

E. National and local decision-making

It should be pointed out that, in accordance with the judgments of the European Court of Human Rights, the assessment of which measures are necessary to protect the environment rests entirely upon national authorities. The Court has recognized that national authorities are best placed to make decisions on environmental issues, which often have difficult social and technical aspects. Therefore, in reaching its judgments, the Court affords the national authorities in principle wide discretion in their decision-making in this sphere. This is the practical implementation of the principle of subsidiarity [29], [30]. According to it, violations of the Convention should be

prevented or remedied at the national level with the Court intervening only as a last resort after the domestic remedies have been exhausted. The principle is particularly important in the context of environmental matters due to their very nature [31].

As Europe faces economic, social, and environmental pressures, the role of local governments also becomes increasingly important. Local governance structures, closer to citizens and more adaptable than national bodies, are increasingly tasked with addressing global problems that manifest at the community level. Moreover, citizens are pressuring for more participation at all levels and are demanding to be given a voice in local government decision-making [32].

Ensuring a long-term environmental security in the era of climate change requires a multi-level strategic approach. National and local authorities' efforts are crucial when addressing social justice and environmental sustainability alongside technical solutions [33]. They have all the necessary resources through local policies and action plans that enhance safety and equity and at the same time introduce digital and artificial intelligence solutions. Municipalities also play an important role in preserving ecosystems and biodiversity, through public investment, urban planning and infrastructure. A good example is Stockholm's Climate City Contract 2030 that exemplifies a multi-level governance approach uniting the efforts of cities, businesses, academia, and civil society [34]. This aligns with the principle of subsidiarity, ensuring that decisions are made at the most local level feasible [35].

IV. CONCLUSIONS

The intersection of environmental law and human rights has emerged as a frontline aspect of contemporary legal and policy discourse, especially in the context of climate change. The present study has examined on how changing new legal tools and jurisprudence are shaping the interaction between these disciplines, and with particular focus on the pivotal role of national and subnational decision-making in addressing environmental issues. Landmark cases, like *Verein KlimaSeniorinnen Schweiz v. Switzerland*, demonstrate how international human rights law is increasingly acknowledging the urgent necessity to incorporate environmental considerations into its framework. These trends reflect a growing agreement on the intergenerational and cross-border nature of environmental rights, confirming their importance for safeguarding human dignity and well-being [36]. As reflected in the study, climate change threatens society in many ways, from its effects on health to food shortages and exacerbating existing inequalities. Such effects weigh heaviest among vulnerable populations such as older persons, children, and economically disadvantaged persons and thereby point to the need for specifically designed legal and policy interventions [37]. National governments and local authorities are crucial in this context, as they are ideally situated to implement adaptive strategies and uphold the

principles of justice and equity. By utilizing multi-level governance frameworks, integrating digital and artificial intelligence solutions, and encouraging collaboration across different sectors, governments can tackle these challenges while advancing sustainable development [36], [38]. The study also underscores the necessity of making human rights standards part of environmental policy. Global conventions, such as the Paris Agreement, and regional mechanisms, such as the European Convention on Human Rights, offer invaluable frameworks for balancing natural sustainability with protection of inherent rights. Success here relies primarily on the will and ability of national governments to balance their policies in accordance with global commitments. For instance, Stockholm's Climate City Contract 2030 shows the power of new, multi-stakeholder approaches to provide long-term environmental security [34]. Looking into the future, the interface between human rights and environmental law must be strengthened to address the increasing complexity of global issues. This involves not only strengthening legal regimes but also informing the public and increasing public involvement in decision-making [39]. The prominent elements of this program are environmental education, public involvement, and fair access to resources so that all segments of society can enjoy and contribute towards sustainable solutions [40]. Overall, a combination of human rights and conservation of nature sets a good ground for reconciling climate change survival needs [41], [42], [43]. Through cooperation, justice-informed policy, and collective alignment, national and subnational governments can strengthen resilience, safeguard vulnerable groups, and secure conservation of ecological and human systems for the future. This research calls for reaffirmation of commitment to aligning legal and policy interventions with the pillars of sustainability, justice, and human rights in the knowledge that environmental protection is inherently encompassed in the mission of providing a safe and just future for all.

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