

A Critical Research on the Dialectical Relationship between the Environment and Human Rights

دراسة نقدية للعلاقة الجدلية بين البيئة وحقوق الانسان

Sabah haoues¹

¹ University of Batna 1 (Algeria), sabah.haoues@univ-batna.dz

Received: 15/10 /2025

Accepted: 05/04/2026

Published: June /2026

الملخص:

أثارت مسألة الحق في البيئة جدلا فقهيا في فترة لم يكن فيها هذا الحق معروفا بصورة واضحة، وهي تقوم على اتجاهين رئيسيين، يركز الاتجاه الأول على اعتبار أن الانسان وحده يمكن أن يكون صاحب الحق في البيئة، ويخالفه الاتجاه الثاني بالقول إن صاحب الحق يجب أن يكون هو البيئة نفسها. وبالمقابل أيضا ظهرت عدة نظريات تناقش الخاصية الفردية أو الجماعية للحق في البيئة، فترى الأولى بأن هذا الحق لا يمكن الاعتراف به الا للفرد، بينما تعتبر النظرية الثانية بأن الجماعة وحدها هي صاحبة الحق في البيئة.

من جهة أخرى فان العلاقة بين حقوق الانسان والبيئة انتقلت من التنافس والصدام الى التكامل والاثراء المتبادل، حيث أثرت البيئة منظومة حقوق الانسان بظهور حقوق جديدة مثل الحق في التنمية، وفي المقابل أضفت حقوق الانسان الحماية اللازمة للبيئة.

الكلمات المفتاحية: صاحب الحق في البيئة، مركزية الانسان، مركزية الطبيعة، التنافس والصدام، التكامل والاثراء.

Abstract:

The question of the right to the environment was not only a matter of legal argument, but it was also at a time when this right was not so clearly defined.

The precise nature of this right remains subject to doctrinal debate, notably concerning its ultimate holder (whether human-centric or ecocentric perspectives prevail) and its inherent nature (individual versus collective entitlement).

This paper delves into these foundational controversies, analyzing how the relationship between human rights and the environment has evolved from perceived rivalry to acknowledged mutual enrichment.

Key words: Environmental Rights Holder; Anthropocentrism; Ecocentrism; Competition and Conflict; Integration and Enrichment.

Introduction:

It is argued that the right to the environment is one of the most sophisticated ideas in legal thought because it is being the new generation of human rights, which is a collection of rights based on solidarity in the interest of the right holder. This new right has long been internationalized that is primarily due to the growing issues of the environment, which brought a breakthrough in the sphere of human rights. It resulted in the codification of the environmental human rights and their acquisition of the international legal status. The topic concerning the right holder has taken its toll in the context of the discussions and researches connected with the issues of the environmental legislation and human rights on the international level that has caught the interest of numerous philosophers and experts in this sphere. The discussion is still ongoing on whether it can be defined, especially when it comes to transformations.

Moreover, human rights have become extended and new basic rights have been formulated that were not previously in existence such as the right to development and the rights of future generations in the area of sustainable development. Seeing the newness of this kind of subject in the international environmental law and environmental human rights, we have taken it upon ourselves through this, to attempt to answer the chief problem which was mainly associated with: the dialectical relationship between the environment and human rights, to which a series of sub-questions were interrelated, with one of them being: How did the environment enter human rights? How did each affect the other? Were they hindrances or impediments to one another, or is there an enrichment between them?

To address this issue, we adopted the descriptive approach to describe the legal status enjoyed by the environmental rights holder within the various legal frameworks and rules for environmental protection. We also utilized the legal and analytical approach by reviewing jurisprudential opinions and positions, alongside analyzing legal texts and demonstrating their effectiveness in providing the necessary protection for the environment and human rights. In doing so, we relied on a three-part research plan as follows:

1- The Right to Environment: Reshaping the Subject and the Rights Holder

- 1.1- The Concept of Anthropocentrism
- 1.2- The Concept of Ecocentrism
- 1.3- The Concept Established by Positive Law

2- The Environment: From a Framework for Exercising Rights to a Fundamental Right

- 2.1- The Collective Theory
- 2.2- The Individualistic Theory
- 2.3- The Theory Established in Positive Law

3- Human Rights and the Environment: From Competition to Integration

- 3.1 - Competition and Conflict Between the Environment and Human Rights
- 3.2 - Integration and Mutual Enrichment Between Human Rights and the Environment

1- The Right to Environment: Reshaping the Subject and the Rights Holder

The fundamental doctrinal debate concerning the right to the environment revolves around the identification of its legitimate holder, or subject of right a concept distinct from merely being an object of protection.

This controversy pits two principal conceptual approaches against one another: anthropocentrism and ecocentrism.

1.1- The Concept of Anthropocentrism

The Proponents of this concept believe that humans are rational beings with a unique status that no other being shares, allowing them to control nature by any means necessary. Therefore, humans must be granted all rights, and nature has none. According to this concept, humans are superior to the universe, especially the animal and plant kingdoms, in a very real sense¹.

D. Lochak considers that: One cannot think about human rights except by assuming that a human being is the subject or the owner of the right². The jurist Ferry, in his conception, considered man to be an unnatural being, and this conception was the result of a long struggle and movement against nature and its pressures, factors that made man the most influential of living beings on nature in terms of power and control³.

The concept of human centrality in the legal sense is embodied in the concept of legal personality, which considers individuals as the ultimate purpose of rights, and only the individual can be the holder of rights⁴. Therefore, environmental protection is for the sake of achieving human welfare, not for the environment itself. Consequently, a strict distinction must be made between humans as rights-holders and the environment as the subject of rights⁵.

The concept of human centrality embodied in the legal notion of legal personality has faced significant criticism from scholars interested in this matter, emphasizing that humans are not the sole holders of rights in the environment⁶. They argue that there are rights that can be recognized outside human mediation and proposed the possibility of granting nature the status of a rights holder in the environment.

1.2- The Concept of Ecocentrism

posits that humans are merely a link in the ecological chain of the biosphere, which is considered a single unit. In this view, humans do not hold a privileged position, nor can they be favored over other beings⁷.

The concept of nature's centrality, which places nature on equal footing with humans, transcends the idea that humans are the foundation of the universe. It shifts to the notion that nature holds the right⁸. Recognizing nature's rights is also an acknowledgment that animals, trees, plants, and even rocks possess these rights⁹.

This concept, which posits that nature is the center instead of humanity, has resulted in several important outcomes, which we summarize as follows:

- The shift from the idea of nature as a subject of rights to the idea of nature as a right-holder alongside humanity. All elements of the biosphere, including humans

and nature, have the right to life, which necessitates legal and ethical cooperation between them¹⁰.

- The shift from the idea of a social contract to a natural contract that includes rights for nature alongside humans¹¹.
- The coexistence between nature and humans, which has paved the way for integration and interaction between them¹².

This concept has faced numerous criticisms, particularly from a legal standpoint, where it's been argued that¹³:

- Recognizing legal personhood for elements of nature and granting them rights also necessitates recognizing their fundamental rights.
- Legal personhood is established through a name, domicile, and nationality, yet these criteria are not applicable to identifying plants, animals, and inanimate objects.
- Nature and its elements do not possess the psychological and physical capabilities to seek legal recourse.

In this regard, some jurists believe that nature, according to the Roman meaning of the word, expresses a material and symbolic value passed down through generations. It is not owned by any individual, and damaging or harming it is forbidden¹⁴. Consequently, the holder of this responsibility is humanity, as a member of the human community, not as an isolated individual.

As a result of all the foregoing, it is clear that the problem with which proponents of the concept of nature's centrality grappled relates primarily to the definition of legal concepts, rather than the philosophical approach¹⁵. The idea that inanimate natural elements, such as trees, mountains, and valleys, should have rights is, in truth, unconvincing and vague.

1.3- The Concept Established by Positive Law

Is embodied in the Global Charter for Nature adopted by the United Nations in 1982, a concept that eliminates the central position of humans in nature, where it states: "Humanity is part of nature..., and every form of life deserves respect regardless of its usefulness to humans."¹⁶

National constitutions have enshrined this concept, as seen in the **Bavarian** constitution, which states: "Individuals are obligated to treat nature with respect". Furthermore, Article 42 of the **Brandenburg** constitution stipulates that: "Animals and plants are respected as living beings, and the necessary natural species and elements must be protected and preserved"¹⁷.

However, we find internationally that the concept of human-centeredness prevails¹⁸. The Rio de Janeiro Declaration of 1992 states that: "Human beings are at the center of concerns for sustainable development"¹⁹, which means that humans have a central place. Furthermore, the second paragraph of the same principle provides the human beings the right to a healthy and productive life within the harmony of nature which implies that human beings are the only proprietors of rights in the environment.

Also, **the Aarhus Convention** states that: "Adequate protection of the environment shall be essential for human well-being"²⁰. This article refers to the unity of humans as rights-holders in environmental protection, and it acknowledges the right of every individual to live in a clean and suitable environment to ensure their health and well-being, in addition to being the holder of the procedural components embodied in the text of the convention²¹.

We also find many constitutions that have adopted a concept of the right to the environment centred on humans. **The French Environment Charter** of 2004 states that: "The very existence of humanity cannot be separated from the natural environment of man... and the environment is the common responsibility of all people." The phrase "for everyone" in the first article of the charter refers to humans as the central element in this right, and the term "health" refers to human health²².

This movement of recognition culminated with the adoption, on October 8, 2021, by the United Nations Human Rights Council of Resolution 48/13, which, for the first time, recognized the right to a clean, healthy, and sustainable environment as a human right. This recognition was further solidified by the United Nations General Assembly, which adopted Resolution 76/300 on July 28, 2022, universally consecrating the right to a healthy environment. These resolutions mark a significant doctrinal and normative turning point, transforming an implicit or emerging right into a universally recognized one, and placing humans at the heart of this protection while acknowledging their interdependence with a quality environment, this confirms the "fundamental" nature of the right to the environment, placing it on par with other civil, political, economic, social, and cultural rights.

It is clear from the above that if nature is the subject of the right to the environment, it cannot be the owner of this right, and man becomes the owner of the right as the holder of power²³. This makes him responsible not only towards nature but also towards future generations, who are also entitled to the right to the environment²⁴. If man is an element in the natural environment, he is not the only element that occupies this environment, as there are other elements such as plants and animals with which he interacts, which requires him to respect them.

while positive law has largely maintained an anthropocentric framework in terms of subjecthood (recognizing humans as rights-bearers), it increasingly acknowledges the intrinsic value of nature and the profound interconnectedness necessary for human rights realization.

2- The Environment: From a Framework for Exercising Rights to a Fundamental Right

In Having addressed the fundamental question of legal subjecthood in the context of environmental rights, a distinct yet equally important doctrinal debate concerns the nature of this right: specifically, whether it primarily constitutes an individual or a collective entitlement?

2.1- The Collective Theory:

Proponents of this theory believe that the right to the environment is a collective right. To define this right, two approaches emerged:

A Critical Research on the Dialectical Relationship between the Environment and Human Rights sabah haoues

The first approach views the collective right as: "an individual right exercised collectively"²⁵, or a right where the individual is the holder of the right, but only exercises it within the group. An example is the right to strike, which is considered a right of every individual, but its exercise is necessarily collective.

The other perspective holds that determining whether a right is collective or individual doesn't depend on how the right is exercised, but rather on identifying the right's owner²⁶. It considers a true collective right to be one that isn't recognized for each individual separately, but rather for a group of individuals or an entity representing society as a whole²⁷.

From a legal standpoint, we find that the community, as the holder of environmental rights, is represented by public authorities. These authorities possess rights concerning the protection and improvement of nature and can sue anyone who infringes upon these rights. According to the concept of this theory, public management, or shared governance, is the best way to ensure respect for the right to the environment, as it considers nature to be a common resource²⁸.

2.2- The Individualistic Theory:

This theory posits that the right to the environment is an individual right and cannot be recognized abstractly for the collective, but rather for every legal entity, natural or moral. Unlike the collective theory, it asserts that public authorities are not the sole guarantors of respect for the right to the environment²⁹.

The individualistic theory connects the right to the environment with private property, considering private property a tool and means of environmental protection. When the right to the environment is recognized for private legal persons, similar to a creditor's right or the right of ownership, any citizen can take action against anyone who causes them harm by filing a lawsuit before the competent judicial authorities, even against the administration itself. This theory also adopts the idea of environmental privatization and considers it the best way to preserve nature³⁰.

This theory has not escaped criticism due to its linking of the right to a healthy environment with private property on the basis that:

- Property is unable to protect all components of the environment, given the existence of elements that cannot be owned and therefore cannot be the subject of private ownership, such as water, air, migratory birds, etc³¹.
- Private property is not always used for the purpose of protecting the environment, as the owner themselves can cause harm to the environment³².
- Based on the individualistic theory, the characteristic of the right holder, is fragmented and distributed among a large number of right holders, which creates difficulty in managing the environmental medium, which is characterized by unity.

1.3- The Theory Established in Positive Law "Mixed" Approach:

that current positive law predominantly adopts a mixed approach, recognizing the right to the environment as capable of being exercised both individually (e.g., protecting a person

from pollution harming their health) and collectively (e.g., protecting a community's access to clean air or traditional lands).

Places the first international treaty enshrining the right to the environment in **the African Charter on Human and Peoples' Rights** of 1981, specifically Article 24. This article states: "All peoples shall have the right to a general satisfactory environment favorable to their development". The article's use of the phrase "All peoples" signifies its adoption of the collective theory³³.

The Additional **Protocol to the American Convention on Human Rights** "San Salvador" of 1988, in Article 11, stipulates the right to a healthy environment as an individual right, using the term "every person"³⁴.

The Stockholm Declaration, in its first principle, states on the right to the environment: "Man has a fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment, both for present and future generations"³⁵. From this text, we deduce that the Stockholm Declaration adopted the individualistic theory.

The European Court of Human Rights adopted the individualistic theory by incorporating the environmental dimension into the protected rights, under the European Convention on Human Rights and Fundamental Freedoms³⁶.

The majority of constitutions have adopted the individual theory of the right to the environment, including the constitutions of: Spain, Portugal, Greece, Finland, Romania, Turkey, and Belgium, using the term "everyone".

However, **the Brazilian Constitution** of 1988, in Article 225, stipulates that: "Everyone has a right to an ecologically balanced environment as a common good for the use of the people"³⁷.

Using the phrase "everyone" implies an individual understanding of the right to the environment, while the phrase "a common good for the use of the people" indicates a collective understanding of the right to the environment. The right to the environment in Brazil carries a mixed meaning, as ruled by the Regional Federal Court. "The right to a healthy environment belongs to everyone, but it is also trans-individual"³⁸. The mixed nature of the right to the environment, already discernible in instruments such as the African Charter on Human and Peoples' Rights, has been affirmed with renewed vigor by international jurisprudence. Notably, Advisory Opinion OC-23/17 of the Inter-American Court of Human Rights³⁹ clarified the scope of States' obligations regarding human rights and the environment, emphasizing that this right encompasses both an individual dimension, protecting individuals against direct harms, and a collective dimension, recognizing the interest of communities and peoples in preserving the environment for present and future generations.

In this context, we find that a large part of international legal texts has adopted the mixed or compound concept of the right to the environment, where PRIER MICHEL affirmed that the right to a healthy environment is a "mixed right"⁴⁰, meaning it is both a collective and

an individual right. He was supported in this opinion by JOSEPH PINI who stated that the right to the environment is a combination of the first and second generations of rights⁴¹.

It is clear that the right to the environment is a new type of human right that combines collective and individual rights⁴², as it can be exercised individually or collectively, and thus the individual and the group are the holders of the right to the environment, and they are also the beneficiaries of this right.

3- Human Rights and the Environment: From Competition to Integration

In this section, we will review the relationship of conflict and competition between the environment and human rights, followed by the relationship of integration and mutual enrichment in both directions: -Human rights towards the environment – and -The environment towards human rights-.

1.3- Competition and Conflict Between the Environment and Human Rights

where harming the environment negatively impacts the advancement of certain human rights, and vice versa. We will illustrate this through the following examples⁴³:

- The right to work clashes with the danger of creating polluting factories or relocating them.
- Similarly, the human right to development clashes with limiting growth to protect the environment and preserve natural resources.
- Another notable example is that the right to movement clashes with preserving protected areas.

2.3- Integration and Mutual Enrichment Between Human Rights and the Environment

Here, we will study the environment from a human rights perspective, meaning we will start from the terms and characteristics of human rights in order to pour this logic into a vessel called the environment by studying the following characteristics:

➤ Is the right to the environment a fundamental right?

We will attempt to answer this question through two different approaches, whether it concerns the extent of its consecration under positive laws such as constitutions and international agreements, or through the legal approach:

A. The Positive Approach:

The right to the environment is considered a fundamental right in light of its embodiment within the system of laws, constitutions, and international charters.⁴⁴

In the field of internal recognition, we find that the right to the environment has not been directly addressed as a fundamental right in some constitutions. Instead, it has been included under the chapter of fundamental rights. For example, **the Spanish Constitution** of 1978, which in Article 45 thereof "To enjoy an appropriate environment to develop one's personality and the duty to preserve it."⁴⁵ This article was titled "Basic Rights and Duties."

In France, the right to a healthy environment has been considered a fundamental right and has gained constitutional value through the French Environmental Charter, which was issued in March 2004. "The charter adopted for humanity proclaims that the environment is the common heritage of humankind"⁴⁶.

A Critical Research on the Dialectical Relationship between the Environment and Human Rights sabab haoues

In the field of international recognition, many international agreements have recognized the right to a healthy environment as one of the fundamental rights, alongside other rights that have been acknowledged and guaranteed protection. For example, the African Charter on Human and Peoples' Rights of 1981 is the first international agreement to explicitly recognize the right to a healthy environment through the text of Article 24: "All peoples shall have the right to a satisfactory environment conducive to their development."⁴⁷

Similarly, Article 1 of the Stockholm Declaration considers the right to an environment that allows humans to live in dignity as one of the fundamental rights⁴⁸.

B. The Jurisprudential Approach:

- **The Normative Trend:** It can rightly be said that something is fundamental if it expresses values indispensable to humanity, inherent to humans by virtue of their being human. These are universal rights that all can enjoy, whether citizens or foreigners. Fundamental rights are those necessary to realize self-fulfillment, dignity, and human identity in society. Determining what is fundamental depends primarily on a normative perspective.⁴⁹

- **The Structural Trend:** According to this trend, rights can be considered fundamental rights, given their source and hierarchy. Thus, fundamental rights are those that occupy the highest level of the legal system, and have special guarantees for protection, whether constitutional or international. Consequently, it is not easy to amend or abolish them except through special means, as we find in both Spain and Ecuador. We also find that Italy, Hungary, Argentina, and Brazil consider the right to the environment as a fundamental right due to the existence of mechanisms to ensure its effectiveness, and therefore, it cannot be diminished.

The structural trend considers fundamental rights to be those that cannot exist without a legal system or an element of that system. Moreover, they lose their coherence, function, and identity.

The right to the environment can be considered a right that produces other rights (a nesting right), from which many other rights stem. This concept has found application in European human rights jurisprudence in the case of *Lopez Ostra v. Spain*, where the court considered that serious threats to the environment could affect human well-being and deprive individuals of the enjoyment of their lives. Hence, we find that these threats to the environment affect the right to private and family life, which has the fundamental characteristic inherent in environmental protection⁵⁰.

- **The Common Trend:** This trend focuses on deriving a set of shared values for the legal system rather than contributing to their construction. In the field of the environment, the fundamental characteristic is particularly evident in the concept of common heritage. The environment forms the common heritage of humanity, as embodied in the preamble of the Environmental Charter: "The environment is the common heritage of humankind."⁵¹

➤ Are environmental rights divisible rights?

To answer this question, we will address:

A. In the matter of enjoyment: There is a special interactive relationship between environmental damage and the enjoyment of human rights. The deterioration that the environment suffers from negatively affects the enjoyment of human rights, such as the right to life and the quality of life, which are both achieved according to the state of the environment. The same applies to the right to health, the right to work, the right to food, etc.

The indivisibility of human rights in the face of environmental degradation is particularly evident in contemporary climate litigation. Landmark cases, such as the Urgenda judgment in the Netherlands 2019 and the Neubauer judgment in Germany 2021, have seen national courts order their governments to intensify their greenhouse gas emission reduction policies, on the grounds that climate inaction violated fundamental rights such as the right to life and health (including for future generations).⁵² These judicial decisions concretely illustrate how environmental degradation, in this instance climate change, threatens not only 'quality of life' but 'life itself' and multiple other rights (right to food, water, housing, culture) concurrently."

This litigation is not limited to States; actions are also being brought against corporations, highlighting the expansion of responsibility beyond the sole state sphere, and demonstrating the implementation of the principle of integrating human rights into all spheres of activity.

The enjoyment of all these rights remains dependent on environmental conditions, as emphasized by Professor Mahfouz Ghazali when he said: "The degradation suffered by the environment has negative effects on the enjoyment of human rights."⁵³

B. In the matter of the impact of human rights violations on environmental degradation: Here, a distinction must be made between cases of environmental interference and their effects on human rights, and the case of environmental degradation resulting from human rights violations:

▪ **Cases of environmental degradation and their impact on human rights:** Environmental degradation negatively impacts the enjoyment of human rights. For example, environmental damage not only threatens the right to a good quality of life, but also the right to life itself. The same applies to the right to health, the right to work, the right to security, the right to education and culture, equality, peace, and development. There is a special link between poverty, underdevelopment, environmental degradation, and human rights. This link has resulted in an increase in child mortality, malnutrition, illiteracy, and lack of access to primary healthcare... Likewise, the multiple violations of human rights and the infringement on the conditions of life contribute to the deterioration of health, unemployment, rural displacement, and racism... among other things⁵⁴.

Furthermore, the concentration of polluting gases in the atmosphere due to human activity and the effects of global warming, especially the rise in sea levels, has a negative impact on natural resources and food products, and leads to natural disasters.

Similarly, the consequences of pollution, such as the leakage of dangerous toxic substances, negatively affect the health, life, and well-being of the population and lead to the deterioration of the biodiversity necessary for the life of other creatures, and may lead to disasters such as the Bhopal and Chernobyl incidents⁵⁵.

▪ **Environmental Degradation Resulting from Human Rights Violations:** Denying human rights, refusing to acknowledge them, and failing to implement and enjoy them has a significant impact on the environment. For example, violating the right to self-determination, as enshrined in the UN Charter, perpetuates underdevelopment and simultaneously depletes a country's natural resources, which negatively affects the environment⁵⁶.

Similarly, violating the right to work and its conditions encourages unemployment, marginalizes youth, and impacts the environment through resource pressure and rural-to-

urban migration. Additionally, failing to uphold the right to information by restricting access to it leads to ecological incidents⁵⁷.

It can be said here that the effectiveness of recognizing environmental human rights at all levels will be incomplete and relative if sufficient guarantees are not available at both local and international levels to implement the actual protection of the environment⁵⁸.

➤ **Are environmental rights universal?**

On the international level, the environment was considered indirectly before emerging as a new policy. The Universal Declaration of Human Rights stipulates the right to life in Article 3 and the right to health in Article 25.

The International Covenant on Civil and Political Rights also enshrines the right to security in Article 9, and the International Covenant on Economic, Social and Cultural Rights addresses the right to health in Article 12. This gives it a universal character, as confirmed by Professor Michel Prieur, who stated: "The right of man to the environment is characterized by its international origin, expressing its universality both globally and regionally."⁵⁹

However, the right to a healthy environment was officially established through the 1972 Stockholm Declaration, which states in its first article: All human beings have a fundamental right...to satisfactory living conditions in an environment whose quality permits them to live in dignity and well-being⁶⁰.

Similarly, the Rio Declaration of 1992, through its first principle⁶¹, and although these texts are not binding, they have played an important role in elevating the right to the environment to a global status.

The universality of the right to a healthy environment, already foreshadowed in the Stockholm Declaration, found full consecration with the UN Human Rights Council and General Assembly resolutions in 2021 and 2022. These universal recognitions are the culmination of a long doctrinal and jurisprudential evolution, seeing environmental rights recognized not only in the national constitutions of over 150 States but also interpreted and applied by regional human rights courts such as the ECtHR in recent pollution-related cases or the Inter-American Court.

Furthermore, the enrichment by environmental rights has strengthened procedural rights, which are essential for the implementation of substantive rights. The right to information, participation, and access to justice in environmental matters, embodied by the Aarhus Convention, continues to see its application expand and its jurisprudence develop, offering individuals and groups concrete means to protect the environment and, by extension, their own rights.

3.3- Enrichment through Environmental Rights for Human Rights

➤ **Expanding the traditional concept of human rights to include non-human rights:**

This union between the environment and human rights has led to an explosion of the conventionally recognized primary container of traditional human rights. This new perspective emerged on the legal level through the recognition of nature, animals, and plants

as rights holders. Consequently, environmental rights have advanced by benefiting from natural science⁶².

It is also worth noting that without a good quality environment and without sustainable development, one cannot speak of applying the Universal Declaration of Human Rights⁶³.

➤ **Shared responsibility as an alternative to individual responsibility:**

The emergence of new environmental rights represents an undeniable contribution to the environment in expanding, upgrading, and enhancing human rights. The environment, as a collective property, has redefined the concept of traditional ownership.

This new legal status has necessarily led to the establishment of new rules of responsibility in the field of environmental protection, a system that differs from individual property law in the sense of activating new rules governing the concept of collective responsibility instead of individual ownership⁶⁴.

➤ **From shared ownership to humanity's common heritage:**

Many jurists have developed a new concept of the environment, leading to a reconsideration of its traditional concept within a new conceptual framework for defining ownership. In particular, thinker Ost has advocated for granting the environment legal status as shared property of humanity⁶⁵.

➤ **Questioning the classical concept of the subject of right:**

Traditional thought has long and strongly relied on the rigid (absolute separation) or absolute distinction between the right holder and the subject of the right. However, environmental rights have led to a reconsideration of this rigid and unjustified distinction between them.

Although recognizing the rights of natural environments - the rights holder - has faced significant and sharp criticism, the rights holder and the subject of the right are no longer separated by an impenetrable barrier. This new perspective has encouraged cooperation between human rights and the environment within an integrated framework, as humans and nature have become intertwined.⁶⁶

And indeed, the concept of the right holder has expanded, even to the point of merging with the concept of the object of the right. This has led to definite repercussions at the intellectual level, particularly affecting traditional oppositional dualities. The separation between nature and culture, and between science and society, has become an abandoned concept, replaced by mutual interaction, connection, and interdependence⁶⁷.

➤ **Advancing certain environmental rights enhances human rights:**

Human rights were not considered a cohesive framework until the inclusion of the right to environment and the right to development, which breathed life into traditional fundamental rights and paved the way for new rights. Furthermore, the gap and deep divide that existed between human rights as legal rules and the ethical awareness of their necessity began to shrink with the development of these rights and their connection to environmental benefits, which gave value to social relations.

On the other hand, we find that the state is legally obligated to protect and respect human rights within its jurisdiction. However, environmental law introduces the principle of state responsibility for transboundary pollution resulting from polluting activities within its territory. Consequently, this principle broadens the responsibility of states in protecting and respecting human rights, such as the right to clean air and the right to safe water, for individuals outside their territorial jurisdiction who are harmed by pollution stemming from these activities⁶⁸.

A Critical Research on the Dialectical Relationship between the Environment and Human Rights sabah haoues

Regarding the principle of the right to information, participation, and access to justice in environmental matters introduced by the Environmental Law, it is considered a significant enrichment of human procedural rights. Although it appears to aim at environmental protection, its substance allows for the implementation of these procedural rights and expands the scope of their application to other matters related to human rights⁶⁹.

Conclusion:

Following an in-depth analytical study of the dialectical relationship between the environment and human rights, it becomes unequivocally clear that this dynamic has undergone a significant evolution, transitioning from an initial perception of rivalry to one of synergy, complementarity, and mutual enrichment.

These findings serve as a valuable bridge between **theoretical discussions and practical applications in contemporary law and governance**.

Building on these findings, from a theoretical standpoint, our analysis has highlighted a significant conceptual shift: the environment is no longer merely a backdrop for the exercise of rights, but has asserted itself as a fundamental right in its own right within the human rights system. This evolution has profoundly reshaped the understanding of the notions of "subject of right" and "holder of right." Moving beyond an exclusively anthropocentric approach or a purely ecocentric perspective (which often faces practical implementation challenges), positive law is now gravitating towards a "mixed" recognition of the right to the environment. In this mixed approach, both individuals and the collective share the entitlement, reflecting an inevitable interdependence between humanity and its environment. This intricate entanglement reveals that human rights are intrinsically linked to the quality of the environment, with the latter constituting an essential pillar for their full realization. Furthermore, this theoretical shift challenges traditional legal binaries, fostering a more integrated understanding where the well-being of human populations is inextricably tied to the health of the planet.

In terms of practical implications, the study unequivocally demonstrates that environmental protection is a condition for the effective enjoyment of all human rights. Environmental degradation not only jeopardizes direct rights, such as the rights to health or clean water, but also undermines fundamental entitlements like the right to life and dignity. The pervasive impact of environmental issues, ranging from pollution to climate change, directly infringes upon the ability of individuals and communities to live in conditions conducive to human flourishing. Conversely, the integration of human rights principles into environmental discourse has elevated certain rights, such as the right to environmental information, to the status of fundamental rights. This has provided crucial procedural tools for environmental protection, enabling greater transparency, public participation, and accountability in environmental decision-making processes. Moreover, it creates avenues for legal recourse against environmental injustices, thereby empowering affected communities.

The relevance of this analysis to contemporary environmental governance is paramount. It necessitates a reinforced legal recognition of environmental rights, extending beyond mere formal acknowledgment in texts to the establishment of concrete mechanisms and tools that ensure their effective implementation. This entails developing robust legal frameworks that foster citizen participation, guarantee access to justice, and promote collective responsibility for environmental harm. Emphasis on the role of effective environmental governance is crucial: it is through robust, transparent, and rights-based governance that the recognition, protection, and activation of environmental rights can be

**A Critical Research on the Dialectical Relationship
between the Environment and Human Rights
sabah haoues**

fully achieved, thereby solidifying the broader protection of human rights. Such governance must be adaptive, inclusive, and capable of addressing complex, transboundary environmental challenges while upholding human dignity and justice.

In conclusion, the recent recognitions of the right to a healthy environment by the highest bodies of the United Nations, coupled with the burgeoning climate litigation and the constant enrichment of human rights jurisprudence, strongly confirm the relevance of our analysis. The right to the environment is no longer a mere aspiration or a doctrinal controversy; it is now a recognized pillar of the human rights system, acting as a catalyst for the protection of all other rights and for the establishment of a common responsibility towards our natural heritage. These developments call for increased vigilance from environmental courts or, more broadly, from judicial mechanisms that interpret and apply environmental rights to ensure the effectiveness of these rights and to translate principles into concrete actions for a sustainable future.

References:

- 1 Laurent Fonbaustier : Environnement et pacte écologique, remarque sur la philosophie d'un nouveau « droit a », cahiers du conseil constitutionnel, n0 15, Edition Dalloz, 2003, p141.
- 2 Frédéric SUDRE : droit européen et international des droits de l'homme, 9ed et augmenté, puf, 2008,
- 3 Serge Gutwirth : Trente Ans De Théorie De Droit De L'environnement, Concepts Et Opinions, p07, cet article est paru sous le titre « 30 jaar milieurechtstheorie : begrippen en standpunten » dans Milieu& Recht (Utrecht-pays bas), Vol28, 2001/2, pp44-50. Il a été traduit par Thérèse Van Durme et Dominique Mougenot.
- 4 Vincent Rebeyrol : l'affirmation d'un « droit à l'environnement et la réparation des dommages environnementaux, Tome 42, Editions Extenso, France, 2010. P88-89.
- 5 Ibid., p86.
- 6 Ibid., p 89.
- 7 Ibidem.
- 8 Tomas Berns : Le Droit Saisi Par Le Collectif, Bruylant, Bruxelles, 2004, P234.
- 9 Prieur Michel : vers un droit de l'environnement renouvelé, cahiers du conseil constitutionnel n015 (dossier : constitution et environnement), paris, janvier 2004, pp08-10.
- 10 Vincent Rebeyrol : l'affirmation d'un « droit à l'environnement et la réparation ...», Op.cit., pp 90-91.
- 11 Serge Gutwirth : Trente Ans De Théorie De Droit De L'environnement, Op.cit., p09.
- 12 Ibid., p05.
- 13 Vincent Rebeyrol: Op.cit., p91.
- 14 Hugues Dumont, François Ost Et Sébastien Van Drooghenbroeck : la responsabilité face cachée des droits de l'homme, Bruylant, 2005, p310.
- 15 Vincent REBEYROL : l'affirmation d'un « droit à l'environnement et la réparation... », Op.cit., p92.
- 16 United Nations General Assembly Report: Sustainable Development: Living in Harmony with Nature, Sixty-fifth Session, 19 August 2010, p. 04.
- 17 Vincent REBEYROL : l'affirmation d'un « droit à l'environnement et la réparation... », Op.cit., p92.
- 18 Ibid., p 102.
- 19 International legal Materials (I. L.M), N04, 1992, p876.
- 20 Vincent Rebeyrol: Op.cit., p92.
- 21 Ibid., p94.
- 22 Prieur Michel : vers un droit de l'environnement renouvelé, Op.cit., pp7-8.
- 23 Vincent Rebeyrol: Op.cit., p95.
- 24 Serge Gutwirth : Trente Ans De Théorie De Droit De L'environnement, Op.cit., p10-11.
- 25 R. Pellox « vrais et faux de droits de l'homme, problèmes de définition et de classification », RDP1981, p67, dans le livre, Vincent REBEYROL, l'affirmation d'un

« droit à l'environnement et la réparation des dommages environnementaux, Tome 42, Editions Extenso, France, 2010. P95.

26 Ibid., p96.

27F. Sudre : droit international et européen des droits de l'homme, PUF, 2006 N064, dans le livre Vincent Rebeyrol, l'affirmation d'un « droit à l'environnement et la réparation des dommages environnementaux, Tome 42, Editions Extenso, France, 2010. P96.

28 Ibid., p96

29 Vincent Rebeyrol, l'affirmation d'un « droit à l'environnement et la réparation des dommages environnementaux, Tome 42, Editions Extenso, France, 2010. P100.

30 European Court of Human Rights (ECtHR) Judgments: Öneriyıldız v. Turkey, Application no. 48939/99, Judgment of 30 November 2004. Hatton and Others v. the United Kingdom, Application no. 36022/97, Judgment of 8 July 2003. Cordella and Others v. Italy, Application no. 54414/13, Judgment of 24 January 2019.

31 Vincent Rebeyrol, Op.cit., p100.

32 Ibid., p101.

33 Ibid., p102.

34 Jean-Pierre Machelon : De Droit De L'environnement Au Droit A L'environnement, A La Recherche D'un Juste Milieu, L'harmattan, Paris, 2010, p29.

35 Kiss Alexandre; Devid Chelton: international environmental law, transnational publishers. INC. Ardsley-On6Hudson, New York, Graham a Trotman limited, London, England, 1991, p119.

36 Vincent Rebeyrol : l'affirmation d'un « droit à l'environnement et la réparation des dommages environnementaux, ibid., p104.

37 Prier Michel : droit de l'environnement, 40^{ème} édition, Dalloz, p58.

38 Tribunal régional fédéral, 4^{ème} région, appel d'une action civile publique, 1998.04.009684-2sc, intéresse publico 2003, vol19, p288.

39 Inter-American Court of Human Rights (IACtHR) Advisory Opinion OC-23/17 "Environmental Rights and Human Rights and the Inter-American System." ,2017.

40 Christel Cournil, CATHRINE COLARD-FABREGOULE : Changements environnementaux globaux et droits de l'homme, BRUYLANT, 2012, p160.

41 Tupissa-Merlin.L : en quête de la pleine effectivité du droit à l'environnement, 2008, pp04-06. (En ligne) URL : <http://www.afdc.fr/congresParis/comC8/TupiassuTXT.pdf>

42 Daniel Bodansky, Jutta Brunnée and Ellen Hey: The Oxford Handbook of International Environmental Law, University Press, 2008, p 671.

43 Med Ali Mekouar : Etudes en droit de l'environnement, Editions OKAD, 1988, p92.

44 Shampeil Desplats : droit à la protection de l'environnement et droits fondamentaux, dans Environnement Et Renouveau Des Droits De L'homme sous la direction de JEAN CLAUDE MASCLET, la documentation française, Paris, 2006, p17.

45 Fernando Lopez Ramon : l'environnement dans la constitution espagnole, université de ZARAGOZA, RJEn spécial, 2005, p21.

- 46 Jacqueline Moraud-Deville : le droit français de l'environnement, conférence à l'institut français de CHINE (PEKINE), 21 avril 2011, p2.
- 47 Vincent Rebeyrol : l'affirmation d'un « droit à l'environnement et la réparation des dommages environnementaux, Op.cit., p20.
- 48 Stockholm Declaration of the United Nations on the Environment, adopted in the city of Stockholm, Sweden on 16/06/1972.
- 49 Shampeil Desplats : droit à la protection de l'environnement et droits fondamentaux, op.cit., p21.
- 50 Ibid., pp23-24.
- 51 Ibid., p25.
- 52 Peel, Jacqueline, & Lin, Jolene: Environmental and Climate Change Law* (3rd ed.). Oxford University Press, 2020, p130.
- 53 Mahfoud Ghezali : les nouveaux droits fondamentaux de l'homme, in Vers un nouveau droit de l'environnement ? Etude de droit comparé de droit international de l'environnement, sous la direction de MICHEL PRIEUR, CIDCE, 2003, pp90-91.
- 54 UN General Assembly Resolution 76/300: The human right to a clean, healthy and sustainable environment. A/RES/76/300, 2022, p12.
- 55 UN Human Rights Council Resolution 48/13: The human right to a clean, healthy and sustainable environment. A/HRC/RES/48/13, 2021, p 16.
- 56 Daly, Erin: The 'Right to a Healthy Environment' in Global Context: Human Rights, Indigenous Rights, and Rights of Nature, Journal of Human Rights and the Environment, 12(1), 3-23, 2021, p 18.
- 57 Aarhus Convention: Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 1998.
- 58 Mahfoud Ghezali : les nouveaux droits fondamentaux de l'homme, op.cit., p92.
- 59 Michel Prieur : droit de l'homme à l'environnement et développement durable, faculté de droit et des sciences économiques, université de LOMOGES, France, p106.
- 60 Stockholm Declaration of the United Nations on the Environment, adopted in the city of Stockholm, Sweden on 16/06/1972. Op.cit.,
- 61 The Rio Declaration on Environment and Development issued by the Rio Conference "Earth Summit" held in Brazil on June 3-14, 1992.
- 62 Orellana, Arturo: The Rights of Nature in Latin America: New Perspectives on Law and the Environment, Journal of Environmental Law, 28(2), 263-287, 2016, pp 270, 274.
- 63 Mahfoud Ghezali : les nouveaux droits fondamentaux de l'homme, op.cit., p87.
- 64 Serge Gutwirth : Trente Ans De Théorie De Droit De L'environnement, Op.cit., p13.
- 65 Ibid., p14.
- 66 Ibidem.
- 67 Ibid., p15.
- 68 United Nations Guiding Principles on Business and Human Rights (UNGPs), 2011, p56.
- 69 Mahfoud Ghezali : les nouveaux droits fondamentaux de l'homme, op.cit., p89.