

ЮРИДИЧНИЙ ФАКУЛЬТЕТ
СУМСЬКОГО ДЕРЖАВНОГО УНІВЕРСИТЕТУ
ЛІГА СТУДЕНТІВ АСОЦІАЦІЇ ПРАВНИКІВ УКРАЇНИ

**ДІЯЛЬНІСТЬ ОРГАНІВ ПУБЛІЧНОЇ ВЛАДИ
ЩОДО ЗАБЕЗПЕЧЕННЯ СТАБІЛЬНОСТІ ТА
БЕЗПЕКИ СУСПІЛЬСТВА**

МАТЕРІАЛИ
Міжнародної науково-практичної конференції
(Суми, 21–22 травня 2015 року)

Суми
Сумський державний університет
2015

СЕКЦІЯ 8

ЗЕМЕЛЬНЕ ПРАВО; АГРАРНЕ ПРАВО; ЕКОЛОГІЧНЕ ПРАВО; ПРИРОДОРЕСУРСНЕ ПРАВО

HUMAN RIGHTS AND ENVIRONMENTAL PROTECTION IN WHAT WAY(S) CAN THE RIGHT TO ECONOMIC AND SOCIAL DEVELOPMENT COLLIDE WITH THE RIGHT TO A HEALTHY ENVIRONMENT?

Brazhnyk Nazar

International Relations, Lazarski University

Dr hab. Wiesław Waclawczyk

Human rights frequently collide and intertwine. Therefore, in this paper we consider the way the collision of human rights to economic development and human rights to a healthy environment. This essay will argue that the right to a healthy environment and right to economic development can be compatible, but this requires sustainability of society, economy, and politics. Before we will know in what ways these rights may collide, we will look at what those rights are guaranteed, after let us examine the examples of how these rights can harm each other or exist peacefully with each other.

Modern world enables people to develop freely and exercise their rights determined and fixed as international law and the law of each country. Jurisprudence distinguishes three generations of human rights, due to their historical development and formation, which according to the first-generation rights are those associated with liberal values of society and include civil and political rights. They were enshrined at the global level and given status in international law first by Articles 3 to 21 of the 1948 Universal Declaration of Human Rights and later in the 1966 International Covenant on Civil and Political Rights. The second- generation rights are rights related to human social existence and implementation of economic rights. Like first-generation rights, they were also covered by the Universal Declaration of Human Rights, and further embodied in Articles 22 to 28 of the Universal Declaration, and the International Covenant on Economic, Social, and Cultural Rights. This facts draws attention to the difference between the first and second generation rights, it is that the first generation is the generation is called "negative rights", implemented by man and are protected from interference, while the second generation is a generation of "positive rights" for implementation of which requires active involvement of the state. The third generation of human rights, which shown in many progressive documents of international law, including the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment, the 1992 Rio Declaration on Environment and Development, and other, combines the collective rights that are required not only to one individual, and that is important and necessary to all members of society. If we talk about economic and social rights that belong to the second generation, we should mention the economic function of the state primarily. The essence of economic rights is the possibility of human and society to operate freely in economic, industrial employment. Perform the operation on the creation, distribution and use of wealth. Economic rights combine the right to property, business, the right to work. Referring to environmental rights, the very fact that

they are coming out of their collective merits, because they are not related to the implementation of these rights by one person for their own needs, and with common actions for the protection, use and reproduction of natural resources, environmental security, prevention of the harmful effects of human activities on the environment, conservation and restoration of natural resources. Ensuring environmental rights are the basis of environmental policy and purpose of its implementation. Thus, Environmental law related to the interaction between man and nature and performing of other rights in the natural environment. Based on the theory of law, each person is entitled to fulfill their rights, in its to discretion to meet their needs. The only restriction in this case is only the rights of others. This expression means that implementing any - that person must do it in a way that does not violate the rights of others. This provision applies to implementation of all rights: political, social - economic, cultural, environmental, etc. Yuri Sulzhenko commented the provision on the legislation of Ukraine rights as follows that the Basic Law gives man freedom. So that it could not be used against the interests of society, the state and other citizens.

The conflict between human right to economic development and right to a healthy environment may arise a very simple nowadays because almost every city has a factory, which manufacture a variety of products. These factories have at their disposal a variety of chemical elements, as a result of careless handling that, can lead to the threat of the entire city in which the plant is situated. As a human right to economic activity is not restrained, each person can build own factory. The most horrible examples of environmental pollution are based on accidents of various plants. For example Bhopal gas leak, Chernobyl nuclear accident, Citarum river pollution. Represented the disasters is the most terrible catastrophe, irrevocably infected the Earth and made places near which were placed these factories uninhabitable. The cause of these disasters is human negligence.

Based on this preamble we can say that, from the one hand the right to economic development gives a chance to the existence of other human rights. For example the right to work, right to an adequate living standard, the health and well-being of the person and his family, housing and medical care and necessary social services. Therefore, we can say that the right to economic development helps to realize almost all human rights. However, with the right to economic development, people should remember of limitations which are determined by law solely for the purpose of securing due to recognition and respect for the rights and freedoms of others and of meeting the requirements of morality, public order and the general welfare in a democratic society. When people work, they can provide themselves with own clothes, housing, food, medicine, and other social services. Factories are being built with violations; that later leads to accidents, wasted water is discharged into the river without any cleaning; garbage is disposed of in a proper way. These violations lead to one of the biggest problem, when the planet will be completely polluted, and in the future, humanity will not be able to cope with large-scale pollution. All types of pollution exist due to people, such as heat, light, noise, electromagnetic, radioactive, space and other contaminants. All of these types of pollution have appeared due to human economic development.

On the other hand, the right to economic development provides the construction of various factories, which then may pollute the environment. When most governments in the world are corrupted, it is not surprising that any businessman can build such factory for the production of fertilizers and other chemicals within the boundaries of the settlement. To make 29 million plastic bottles, it is necessary to use 17 million barrels of

crude oil, which would be enough to provide a million cars fueled a year. Only 13% of these bottles is recycled. Products like computers, televisions, and mobile phones contain poisonous substances like lead, cadmium, chromium and mercury. The United Nations reckons that 50 million tons of electronic waste is discarded every year. Every year, indoor air pollution is responsible for the deaths of 1.6 million people, more than malaria, reports the World Health Organization. Thus, a person may at its discretion exercise the rights provided for, in international acts, no one can limit his rights, except for the rights of others. And there are limits for the rights; the rights can be realized as long as it does not violate the rights of others.

The first example shows that the colliding of human rights on economic development and a healthy environment can have consequences. Enterprise "Aurul", deals with the extraction of gold and silver. January 30 at 22:00 a mining Baia collapsed dam slurry tank. As a result of 100 thousand cubic meters of wastewater contaminated with cyanide the first reached in river Tisa, and then into the Danube, eventually reaching the Black Sea. The spill affected a large number of species of plants and wildlife that inhabit the river systems. By this example, we can confirm the analysis because there are all aspects of the above-cited analysis. Take a closer look, the human right to economic development by the Australian Romanian mixed enterprise "Aurul" which helps the country and the people who work on it, to exercise the rights of people to the economic development. But the implementation this right for a small number of people, there is a huge threat to violate other human rights, such as a healthy environment. Violation of the right to a clean environment took place in the January 30, 2000 at mining Baia Mare in northwest Romania. As stated in article 29 "Responsibility", the person may be subject only to restrictions which aim of securing due to recognition and respect for the rights and freedoms of others and of meeting just requirements of morality, public order and the general welfare in a democratic society. Why in the world is no global organization that would check potentially dangerous factories, nuclear power plants that pollute or can pollute in the future, the vast territory of the world. If would such an organization had existed, then who knows, maybe today, no one would have known cities such as Chernobyl, Bhopal, Citarum.

The following example shows the way in which the human right to economic development and a healthy environment may encounter in a positive aspect. While in the world there are only a few plants that are almost 100% eco-friendly, one of them called Ecover. Ecover factories located in many developed countries for example USA, England, France, etc. They do everything to limit environmental impact; the Ecover factory operates by tidal generators, wind generators, and other natural sources. For example, they use motors on their mixing machines that can mix 25 tons of Ecover liquid while consuming no more electricity than a few flat irons. This example describes the clean factory management that respects the rights of people. So the company's management, realizing their right to economic development, and doing everything possible that would not violate a single law or human rights.

To summarize based on this research, we can draw the following conclusion: the right to economic development and a right to healthy environment can coexist peacefully with each other, but that the state needs stability and development in all spheres of life. Thus of the examples that were given in the paper, we can conclude that in countries with weak economic and political system such as India, Indonesia, Ukraine, Romania, businessmen can pollute the environment and go unpunished. And in developed countries such as the USA England France human rights are respected and honored. In these

countries build environmentally friendly factories and punish those who pollute the environment.