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THE ENVIRONMENT BETWEEN CONSTITUTIONAL RIGHTS AND SOCIAL CARE REQUIREMENTS ACCORDING TO THE JURISPRUDENTIAL AND JUDICIAL PERSPECTIVES

Dr. Raghda Raafat Elsayed Ahmed
Assistant Professor, Faculty of Law, City University Ajman, UAE
r.raafat@cu.ac.ae

Abstract
This study analyzes jurisprudential and judicial opinions and examines the dialectic of the human right to a healthy environment. The research is based on the problem of to what extent the right to a healthy environment be considered a constitutional right in light of jurisprudential discussions and judicial interpretations. The study attempted to answer the problem as mentioned earlier by discussing the ongoing jurisprudential debate and discussion about the possibility of considering the right to a healthy environment a basic constitutional right, as well as the role of comparative constitutional jurisprudence in establishing the right to a healthy environment as a basic constitutional right. The study has several important aspects, including exploring whether the human right to a healthy environment is a basic right and enhancing public awareness of the importance of environmental rights. One of the most important conclusions of this study is the important role played by legal scholars and judicial interpretation in crystallizing and establishing the human right to a healthy environment as a constitutional right.
Keywords: Environment, Constitution, Human Rights, Jurisprudence, Judicial Position

Introduction

The environment constitutes the quintessential source of the diverse natural resources upon which humanity relies to meet its daily needs, providing essential elements such as water, air, and soil. Furthermore, it furnishes a plethora of raw materials that facilitate various facets of life, encompassing industry, energy, food, and more.

The environment is defined as a vital sphere encompassing all living organisms and their constituent elements, including air, water, and soil, alongside human-constructed infrastructure. In essence, the environment encompasses everything that surrounds and influences the lives of terrestrial beings, encompassing climate, minerals, biota, and other natural components. It operates as a complex system of interwoven relationships, functioning as an interconnected network that sustains life and underpins our existence on this planet (Abu El-Enein & El-Mur, n.d., p. 12).

It is noteworthy that until recently, the constitutions of many nations incorporated traditional rights and freedoms without acknowledging the emergence of novel rights necessitated by human activities, most notably the right to a healthy environment. This right was not enshrined in constitutional frameworks; instead, nations predominantly regulated it through domestic legislation.

However, amidst persistent environmental violations and the ensuing catastrophic climatic shifts (Intergovernmental Panel on Climate Change [IPCC], 2013) that imperil individual health and safety, particularly with the advent of scientific and technological advancements, the intensification of economic and social activities, and the resultant transformations affecting the environment in form and substance. Consequently, environmental scientists have cautioned against the grave repercussions that industrial and economic activities may engender upon ecological equilibrium, recognizing this as a peril that jeopardizes human existence, well-being, and the survival of other living organisms.

Considering this situation, environmental and human rights scholars have deemed the individual's right to a healthy environment as an intrinsic right that is inseparable from their rights to life, health, mobility, labor, property, and other fundamental rights. It is inconceivable for an individual to fully enjoy and exercise their basic rights in a polluted environment (Salama, 1998).

In this regard, the United Nations General Assembly intervened by issuing various resolutions and declarations emphasizing the connection between environmental quality and the enjoyment of basic human rights. Notably, the Stockholm Declaration of 1972 and the Rio de Janeiro Declaration of 1992 marked significant milestones, culminating in the General Assembly's resolution affirming the right of individuals to a suitable environment for their health and well-being.

With the increasing international and regional focus on the right to a healthy environment, particularly on sustainable development, numerous countries have amended their constitutions to acknowledge the principle of the individual's right to a clean, appropriate, and healthy environment, thus granting it constitutional legitimacy. Many nations have also begun to reassess their constitutions and related legislation concerning this matter, while there has been a heightened interest in regulating international environmental relations in response to the pervasive nature of environmental damage, which now poses a substantial threat to the human right to a healthy and sound environment, representing an egregious violation thereof (Fouzi, 1998).

However, constitutional recognition of the individual's right to a healthy environment as a distinct, inherent right—rather than a derivative of other fundamental rights—is a complex issue, sparking debate among legal scholars and various legislative systems.

1. Significance of the Topic:

The importance of this research lies in the following aspects:

- To explore whether the human right to a healthy environment is a fundamental right akin to liberty and equality, or if it is regarded as an optional or secondary matter
  The study of the environment from a legal theoretical perspective may illuminate how legal theories interpret the value of nature and sustainability, aiding in the understanding of whether environmental rights are essential to human dignity and well-being, or if they are contingent upon economic considerations and resource availability
- The study of judicial perspectives illuminates the courts' engagement with environmentally sensitive cases, revealing their capacity to reconcile environmental

protection with other constitutional rights, thus offering a comprehensive view of the evolving judicial stance on environmental safeguarding

- Raising public awareness of environmental rights is critical, as understanding whether environmental quality is a constitutional imperative or a mere luxury profoundly impacts how individuals approach environmental issues, and how they demand accountability from government and corporations

2. Research Objectives:

This research endeavors to achieve a series of objectives, including:

- Elucidating the contentious jurisprudential deliberations surrounding the consecration of the fundamental right to a pristine environment as a cornerstone of individual constitutional entitlements
- Delving into the ongoing scholastic debates surrounding the optimal modalities for constitutionally enshrining human rights to a clean and healthy environment
- Gaining in-depth knowledge of the pivotal role played by constitutional courts in jurisdictions adhering to the Anglo-Saxon legal paradigm in championing environmental protection
- Delineating the function of constitutional courts in common law systems in the realm of environmental stewardship.

3. Research Problem:

The intensification of environmental risks, precipitated by industrial and technological revolutions, has sparked a jurisprudential debate on the constitutionalization of the right to a healthy environment, as well as the optimal mechanisms for its codification. Simultaneously, judiciary, confronted with a multitude of environmental cases, has emerged as a pivotal actor in shaping this right. Given these considerations, the study will be anchored by the following key questions:

To what extent can the right to a healthy environment be regarded as a constitutional right, in light of jurisprudential discussions and judicial precedents?

This key question is further subdivided into the following subsidiary questions:

- What are the principal jurisprudential perspectives on the entrenchment of the right to a healthy environment as a fundamental constitutional right for individuals?
- What are the most salient jurisprudential perspectives concerning the constitutional enshrinement of the human right to a healthy environment?
- How has Anglo-Saxon constitutional jurisprudence engaged with environmental matters?
- How has Latin constitutional jurisprudence addressed environmental concerns?

4. The adopted Approach:

Law with all its branches constitutes a branch of the humanities and social sciences, distinguished by its utilization of a diverse array of methodologies within a single research endeavor. Consequently, the present study shall employ:

The analytical method: This involves an in-depth, analytical examination of pertinent jurisprudential viewpoints and select judicial rulings, to comprehensively study the subject matter through analysis, investigation, and discourse.

The inductive method: Furthermore, the researcher shall employ the inductive method, necessitating a scientific induction of jurisprudential opinions and related judicial decisions, to formulate concepts, generalizations, and universal truths.

5. **Research Plan**: To address the research's central issue and subsidiary questions, and to achieve the predetermined objectives, we have devised a plan structured as follows:

Chapter One: Jurisprudential perspectives on the feasibility of recognizing the right to a healthy environment as a fundamental constitutional right.

Section One: The jurisprudential debate surrounding the potential of enshrining the right to a healthy environment as a core constitutional right for individuals.

Section Two: The jurisprudential debate on the modalities of constitutionally enshrining the human right to a healthy environment.

Chapter Two: Comparative constitutional court perspectives on the feasibility of recognizing the right to a healthy environment as a fundamental constitutional right.

Section One: The stance of constitutional courts in countries adhering to the Anglo-Saxon legal system.

Section Two: The stance of constitutional courts in countries adhering to the Latin legal system.

Chapter One: Jurisprudential perspectives on the feasibility of recognizing the right to a healthy environment as a fundamental constitutional right.

Environmental legislation has primarily focused on the regulation of natural resource exploitation, often neglecting the serious negative impacts on the environment and individual health. Consequently, a legal debate has arisen regarding the possibility of recognizing the right to a healthy environment in the constitution and considering it as a constitutional right. While some legal scholars advocate for this recognition, others oppose it. Nevertheless, proponents of constitutional recognition of individuals' right to a suitable and healthy environment have raised several questions regarding the constitutionality of this right. Among the most significant inquiries are: Does this new right qualify as a right in both the formal and substantive sense of individual rights? What is the foundation or criterion that justifies conferring constitutional value upon this right? What is the essence of this right? Does it fall under individuals' substantive rights, such as civil and social rights, or is it regarded as a procedural right? Or should it merely be articulated in the preamble or introductory statement of the constitution as general political assertions that affirm social principles and objectives, without necessitating a specific provision to safeguard the environment?

This chapter will address these questions by dividing it into two sections. The first section will explore the legal debate surrounding the establishment of the right to a healthy environment as one of the essential constitutional rights of individuals. Meanwhile, the second section will focus on the legal discourse concerning how to constitutionally articulate the human right to a healthy environment.

Section One: The Legal Debate on the Possibility of Establishing the Right to a Healthy Environment as One of the Fundamental Constitutional Rights of Individuals.

The acknowledgment of the constitutional value of the right to a healthy environment as a fundamental human right has sparked extensive debate among legal scholars across various nations. The focus of the discussion has been on the feasibility of incorporating this right into the Constitution as one of the fundamental rights of individuals. While some legal scholars contest the conferral of constitutional value upon the right to a healthy environment, arguing that it does not attain the status of constitutional rights, the majority support this recognition. However, these supporters differ on the criteria that may be employed to justify the acknowledgment of constitutional status.

Therefore, we shall commence this section by reviewing the scholarly perspectives that deny the constitutional legitimacy of the human right to a healthy and sustainable environment (Subsection One), before transitioning to the scholarly perspectives that advocate for the incorporation of the human right to a healthy environment within the constitutional framework (Subsection Two).

Subsection One: The jurisprudential viewpoint that denies the constitutional legitimacy of the human right to a clean and sustainable environment

Some jurists have refused to acknowledge the constitutionality of the right to a healthy environment, relying on a set of arguments that justify their stance against attributing constitutional value to this right or considering it superior to any other legal provisions. These arguments can be summarized as follows:

Firstly, granting unelected judicial authority powers that were designated for elected legislative authority.

Opponents argue that any proposal to confer constitutional status to the right to a clean environment essentially entails the transfer of certain powers from the elected legislative body to the unelected judiciary. Rather than limiting the judiciary's role in ensuring the application of this right, it would also become responsible for its interpretation, thereby granting it exclusive authority to review, interpret, and apply the constitutional provisions concerning the individual's right to a clean environment (Waldron, 1993), (Hayward, 2005), (Luchaire, n.d.).

This jurisprudential perspective also contends that empowering the courts to make decisions regarding the scope of constitutional rights could incite widespread debate on political, economic, and social levels. Since this empowerment restricts the elected legislative authority's ability to fulfill its role in reform and legislative amendment, it indirectly obstructs the rights and freedoms of citizens represented within the legislative body, representing a breach of the principle of separation of powers.

Moreover, transferring the legislative and executive powers in environmental matters to the unelected judiciary places the court in the position of making political decisions regarding the establishment of appropriate standards for environmental protection.

This implies that the judiciary, through the rulings it issues, would assume the role of determining suitable environmental criteria in response to changes in economic and social circumstances (Ferris, 2007).

Second: the absence of a clearly defined environmental right within the constitution, and the ensuing challenges to its enforcement

Another facet of jurisprudence opposing the constitutional enshrinement of environmental rights underscores the challenges inherent in their enforcement and judicial assertion. This viewpoint stems from the ambiguity permeating constitutional texts concerning the human right to the environment, potentially leading to confusion and obscurity, thereby constituting a substantial impediment to the realization of environmental rights and the empowerment of individuals to defend their environmental entitlements before the judiciary (Hayward, 2005, op. cit., p. 108).

This jurisprudential perspective further solidifies its position by observing that an examination of constitutional formulations about individuals' rights to a healthy and suitable environment across various nations reveals a common deficiency: these texts often lack clarity and precision, manifesting as broad pronouncements or aspirations toward specific objectives, rather than attaining the status of actionable legal rights.

Furthermore, certain scholars posit that the proposed standard for a healthy and suitable environment furnishes a generalized and indeterminate description of the level of protection incumbent upon the state to mitigate environmental hazards. Consequently, it becomes infeasible to mandate that states adhere to this standard through its incorporation into their constitutions, given the practical difficulties in its implementation (Nickel, 1983).

Thirdly: The establishment of stringent environmental standards may prove incongruent with states' available economic capacities.

Proponents of this perspective demure from the notion of constitutional recognition of the right to a healthy environment, arguing that such recognition could precipitate the imposition of elevated environmental protection standards, thereby obligating the state to undertake positive duties that may be disproportionate to its financial or economic wherewithal.

The terminology associated with a healthy or suitable environment, as employed in constitutions, may engender numerous inquiries regarding the methods for establishing the requisite criteria to characterize the environment as sound and secure. Considering that the benchmarks for a suitable environment diverge among citizens in industrialized urban areas grappling with pollution, compared to such environments in rural locales that generally experience less contamination, this aspect of jurisprudence debates the means of delineating a minimum threshold of environmental quality, whereby any degradation below this threshold would be deemed a transgression of an individual's right to a suitable environment (Badr, 2017).

Second Subsection: The jurisprudential viewpoint Supporting the Affirmation of the Human Right to a Healthy Environment within the Constitutional Framework

A robust legal perspective has emerged, advocating for the constitutional recognition of an individual's right to a suitable environment that contributes to their well-being and quality of life. This right is regarded as a fundamental human right, deserving of inclusion in the Constitution alongside political, civil, economic, social, and cultural rights.

However, despite the widespread support from jurists emphasizing the significance of acknowledging and guaranteeing the individual's environmental right, disagreements persist

among these jurists regarding the criteria upon which to establish the existence or define the source of this constitutional right to a healthy environment. Their opinions also diverge on the formulation of the text enshrining these rights within the constitution. The approaches adopted by jurists in establishing the concept of the right to the environment can be categorized into four jurisprudential currents:

Firstly: The Value-Based Criterion

This jurisprudential trend posits that human rights, including the right to the environment, are inherently moral rights, deriving their binding force from human nature and ethical interests related to environmental protection, individual health, and well-being. These rights are grounded in the principles of justice and humanity, which form the basis of natural law. These principles represent eternal concepts from which positive rules emanate, with natural law considered the supreme standard, surpassing all positive laws. These laws are founded on the natural rights and freedoms of humans, predating the establishment of the state. Therefore, every legal system in the world must recognize these rights, even if they are not explicitly mentioned in agreements, treaties, or national laws (Pogge, 2002).

Under this view, moral or value-based rights do not necessitate ratification by international agreements or treaties, nor do they require enforcement by any political or legal system to acquire binding status. Consequently, every state must adopt an ethical standard to recognize the constitutional value of the human right to the environment, along with other rights that may not be explicitly stipulated in international agreements and covenants, as moral rules are considered among the most important foundations upon which modern democratic states should be based (Hayward, 2005, op. cit., p. 49).

Secondly: The Legal Standard

This jurisprudential inclination refutes the reliance on ethical benchmarks to substantiate the significance of integrating the right to the environment as a legal tenet, which must be considered when acknowledging the constitutionality of rights proclaimed in international treaties and agreements ratified by states (Boyle & Anderson, 1996).

Based on this perspective, human rights are not merely components of ethics but are predicated upon explicit and precise recognition within international contexts, where these rights possess a mandatory regulatory normative force that transcends the values enshrined in constitutional texts. Consequently, constitutional texts are regarded as mere expressions or natural reflections of international covenants and agreements, rendering it illogical for constitutional provisions to contradict what has been acknowledged in those covenants and agreements (UNICEF, 1st ed., p. 118).

Adherence to the principles of human rights, as delineated in international covenants and agreements, including the right to a sound environment, necessitates the implementation of effective measures. The incorporation of these principles into constitutional documents is deemed the most efficacious instrument at the national level, thereby ensuring strict adherence to internationally adopted environmental protection principles. Furthermore, this inclusion reflects

the significance of environmental issues and accords them with a prominent status equivalent to other human rights, thus underscoring their importance and the imperative of their protection.

Moreover, this jurisprudential inclination rejects the recognition of an individual's right to a healthy environment as a human right that can be incorporated into the constitution unless it has acquired a binding character through prior provisions in international agreements. It also mandates the ratification of these agreements by states seeking to recognize the constitutional value of this right (Boyle & Anderson, 1996, op. cit., p. 49).

This jurisprudential stance also negates the consideration of local laws, which may contain provisions on human rights in the environment, as evidence for recognizing individuals' rights in this domain within the constitution, viewing them as insufficient guarantees for citizens. This is because violations of human rights often originate from the state and its apparatuses themselves. Therefore, the inclusion of the right to the environment in the constitution, as a paramount legal means of integrating legal norms in modern states, depends on the provisions of international agreements and treaties recognized by the international community, rather than on the domestic laws of states.

Notwithstanding, proponents of this perspective underscore that their conclusions are at odds with the conspicuous absence of explicit international recognition of the human right to a clean and unpolluted environment as a fundamental right within international conventions and treaties ratified and endorsed by states.

To circumvent this conundrum, certain jurists have posited that a state's constitutional acknowledgment of any fundamental human right, encompassing political, civil, economic, and social rights recognized in international conventions and treaties, constitutes a sufficient foundation obligating it to enshrine the right to the environment as a fundamental right intrinsically linked to those rights. This implies that the regulatory criterion loses its significance if a state fails to recognize any of the human rights within its constitution (Hayward, 2005, op. cit., p. 83).

Third: The Judicial Criterion

In their endeavor to delineate a standard clarifying the source of constitutional recognition of individuals' right to a healthy environment, some jurists have opted to embrace the judicial criterion as the bedrock for imbuing the right to the environment with constitutional status. These jurists have rebuffed the acknowledgment of the moral existence of the human right to the environment, concomitantly disregarding international conventions that reference it, even indirectly, to secure its constitutional recognition. According to this orientation, human rights derive their legitimacy from judicial pronouncements.

Consequently, it is presumed that states whose courts acknowledge the right to the environment as a fundamental human right are obligated to incorporate it into their constitutions. This signifies that the absence of constitutional regulation on this right does not preclude constitutional jurisprudence from adjudicating cases related to it (Badr, 2017, previous volume, p. 19).

Fourth: The Integrative Criterion

Adherents of this perspective diverged from the viewpoints espoused by the preceding three orientations, advocating for the necessity of amalgamating regulatory or judicial standards with the ethical (value-based) criterion to substantiate the existence of individuals' right to a suitable environment. They contend that ethics do not constitute binding legal constraints upon the will of the three branches of government (executive, legislative, and judicial), but are merely regarded as literary principles insufficient in themselves to impose an obligation on the state to enshrining the environmental right in the constitution. Furthermore, sole reliance on ethical standards could engender ambiguity and lack of clarity, given the difficulty in establishing a unified stance on ethical precepts among disparate peoples, thus rendering them unsuitable as a basis for constitutional recognition of the right to the environment (Hayward, 2005, op. cit., p. 50).

In light of the preceding discussion, it is deemed arduous, according to this perspective, to universally apply ethical precepts across diverse populations, given the variance in their beliefs and viewpoints concerning the individual's entitlement to a salutary and suitable environment. While some vehemently champion the ethical dimension in environmental preservation, others disregard this aspect, swayed by prevailing political, economic, or social interests, thereby diminishing the significance of the human right to a pristine environment. Furthermore, ethical standards alone prove insufficient to institute regulations and constraints upon the conduct of the state and its citizenry. Consequently, the non-binding nature of these standards undermines constitutional texts predicated upon these principles as legal justification.

Moreover, this jurisprudential stance posits that moral considerations alone are inadequate for recognizing the constitutional validity of an individual's environmental right; it necessitates the integration of regulatory or judicial standards alongside ethical principles. Indeed, one cannot address rights in isolation from their corresponding obligations, as the right is intrinsically linked to duties concerning the abstention from environmental harm. Hence, the existence of an ethical right entails the existence of an ethical duty, the two being interconnected and synchronous.

Second Section: Jurisprudential Discourse on the Constitutional Formulation of the Human Right to a Healthy Environment

After examining the jurisprudential debate surrounding the recognition of an individual's environmental right and the discourse on the most suitable criteria for establishing this recognition, it is imperative to address the jurisprudential position, which has also exhibited divergence in opinion concerning the substance or manner of enshrining this right within the constitution. Despite the jurisprudential inclination toward the necessity of incorporating the human right to the environment into the Constitution, jurists have disagreed on the precise form in which this provision should manifest within the constitutional document.

Within this framework, some jurists have posited that the right to a healthy environment ought to be enshrined within the Constitution as a civil and political entitlement, mirroring the individualistic facets of fundamental human rights (Hayward, 2005, op. cit., p. 30) such as the rights to life, liberty, security, and equality. Others have advocated for its categorization as an economic and social right, thereby representing the collective dimension of essential rights,

encompassing the rights to development, social security, adequate housing, and the provision of potable water and sustenance. Furthermore, certain jurists have presented a divergent perspective, contending that the right to the environment should be classified as a procedural right (see Note 1) , delineating the necessary mechanisms for safeguarding substantive rights. Conversely, some have proposed its inclusion in the preamble or introductory sections of the constitution in the form of policy declarations, rather than as a fundamental human right. In this vein, certain legal scholars have suggested the imperative of integrating human rights into the environment within the framework of individual rights and governmental policy statements.

Consequently, this section shall undertake an examination of the classification of the right to a sound environment as a fundamental human right ("Subsection One"), followed by a discussion in "Subsection Two" regarding its categorization as a component of governmental foundational statements.

Subsection One: Categorization of the Right to a Sound Environment as a Fundamental Human Right

A segment of jurisprudence regards the right to a healthy environment as a foundational human right, indispensable for the well-being, dignity, and sustainability of human life. This classification underscores that access to clean air, safe water, unpolluted soil, and a stable climate is not merely vital to individual health but constitutes an integral component in the assurance of other fundamental rights as well.

Within this framework, legal jurisprudence has formulated various classifications of fundamental human rights, aiming to incorporate the right to the environment, as follows:

Firstly, the integration of the right to the environment as an aspect of the civil and political rights of individuals.

Certain jurists posit that all civil and political human rights (Badawy, 1999) , such as the right to life, freedom, security, equality, and justice, acknowledged by states through their commitments to international conventions they have ratified, necessitate explicit recognition and incorporation within their constitutional documents, encompassing the right to environment, considered an intrinsic component of civil and political rights. This perspective is grounded in the notion that these rights constitute a cornerstone of individuals' substantive rights (the individual facet of rights).

Civil and political rights are deemed fundamental elements governing the individual's relationship with the state, imposing constraints on unwarranted governmental intervention in the exercise of individuals' rights and freedoms. Consequently, the state is bound by a negative obligation to refrain from interfering in individual activities and, in general, to abstain from any action that may adversely affect the exercise of individuals' rights and freedoms. The state's obligation is thus limited to safeguarding these rights against any potential infringement.

Hence, the enshrinement of the right to environment as a civil and political right, according to this school of thought, serves as a robust safeguard for the preservation of this right (Badawy, 1999, op. cit., p. 208).

Secondly, the integration of the right to the environment as an aspect of the social and economic rights of individuals.

Proponents of this view advocate that, if the inclusion of the right to the environment in the constitution is deemed necessary, this right should be considered an aspect of individuals' social and economic rights. This right is perceived as being linked to overarching social objectives, particularly those addressing the exigencies of mitigating environmental issues and hazards. Consequently, the status of the right to the environment is perceived as being of lesser import than that afforded to individual human rights, such as civil and political rights. This perspective reflects a value akin to that of political declarations, which are considered of lower value compared to the legal significance of individual rights (see Note 2).

Thirdly: Incorporating the Right to a Healthy Environment as Part of Individuals' Procedural Rights

This legal perspective posits that the most effective means of embedding the environmental right within the constitution lies in articulating it as a procedural right (see Note 3), rather than categorizing it as a facet of substantive environmental rights. Examples of these procedural rights include every individual's entitlement to access information on the environment, engage in environmental policymaking processes, and the right to seek judicial recourse. This standpoint rests on the premise that claims concerning the protection of substantive environmental rights, such as the right to adequate housing or access to clean drinking water, are exceedingly stringent and challenging to fulfill as stipulated.

In contrast, claims of the safeguarding of procedural environmental rights, while also stringent, are confined within more acceptable and achievable limits, as they impose no substantial obligations, thereby alleviating discord and contention surrounding them (Macroy, 1996).

According to its proponents, procedural rights represent the most suitable option for articulating the human right to a healthy environment within the constitution, owing to their largely practical applicability and ease of implementation, alongside the feasibility of invoking them in court. Their realization does not necessitate vast economic resources or capabilities from the state, nor does it compel the government to attain specific substantive outcomes, in comparison to environmental rights that are anticipated to be enshrined as substantive rights, whether within the realm of civil, political, or economic and social rights, which impose an additional burden on the government.

Furthermore, the procedural environmental rights, as per this perspective, are insulated from the critiques often leveled at socio-economic rights, as they are not regarded as affirmative rights. Instead, they are categorized as negative rights, imposing no obligation on the government to undertake specific actions. These rights provide opportunities to limit state interference in individual freedoms without necessitating governmental expenditure for their protection, contrasting sharply with substantive rights (Hayward, 2005, op. cit., pp. 96-98).

Subsection Two: Categorizing the Right to a Clean Environment as Integral Government Data

A legal school of thought posits that the right to a healthy environment should be classified as an essential component of government-issued data, underscoring the increasing significance of

environmental transparency and public access to critical information. By integrating environmental quality metrics, pollution levels, and conservation efforts into governmental data, citizens are empowered to hold institutions accountable, make informed decisions, and actively participate in environmental protection.

This approach emphasizes that a clean environment is not merely a privilege but a shared public right, underpinned by accessible data that reflects the state's commitment to safeguarding health and sustainability. Moreover, another legal current integrates the right to the environment within the framework of individual rights and governmental policy statements. This will be clarified as follows:

First: Stipulation of the Right to Environment Through Governmental Political Declarations

Certain jurists contend that the right to the environment should not be recognized as an individual right within the constitution, emphasizing that human rights possess an individual character, while constitutional rights are distinguished by their generality and abstraction. Therefore, it is preferable not to confine the text of the right to environment within the individual framework. Instead, it should be included in the preamble or the preface of the constitution in the form of political declarations expressing general social directives, principles, and objectives, approaching the collective aspect of substantive rights, such as economic and social rights. While these political declarations do not encompass a specific formulation of rights, they aim to achieve social objectives without establishing clear legal standings. Consequently, legislative, judicial, and executive authorities must adhere to these principles without being legally bound (See Note 4).

The primary reason for favoring this aspect of jurisprudence lies in the political statements or declarations issued by the government, which possess significant literary, political, and social values. Such statements often aim to influence decision-makers; however, they lack enforceable substantive provisions, rendering them non-binding on legislative, judicial, and executive authorities. Despite efforts to achieve these objectives, these texts are considered non-self-executive, devoid of the obligatory power that would allow judicial bodies or individuals to directly rely upon them, unlike foundational rights that include enforceable provisions. Consequently, legislators must reformulate these texts into laws to facilitate recourse and empower judicial bodies to execute them (Brandl & Bunger, 1992).

Secondly: Integrating the right to a healthy environment within the framework of individual rights and governmental policy statements

This jurisprudential approach posits that political data issued by the government, which is incorporated into the constitution, can be regarded as a complementary element to individual rights associated with the enjoyment of a conducive and healthy environment.

This perspective is grounded in the belief that the division of constitutional texts into self-executing and non-self-executing provisions does not impede the interaction between individual rights and political data. Rather, both individual rights and political data can mutually reinforce each other's positions, as each plays an integral role in supporting the other, making the absence of inconceivable (Hayward, 2005, op. cit., pp. 86-87).

It is important to note that not all provisions concerning environmental protection can be classified as individual human rights that must be enshrined in the Constitution. Furthermore, environmental texts that articulate environmental protection extend beyond mere statements, declarations, or general political directives issued by the government. In truth, the formulation of any text addressing environmental protection must be situated within a coherent continuum connecting individual rights—of which they represent one end—and overarching social objectives grounded in public policy statements at the other (Hayward, 2005, op. cit., p. 85, etc.).

The binding force of rights enshrined within such political pronouncements varies depending on their formulation; articulations specifically delineating individual rights bestow upon the texts a mandatory force, thereby accruing all the advantages inherent to individual rights. Conversely, texts lacking such explicit phrasing are relegated to mere aspirations for the state, devoid of any obligation to implement them based on the declaration or directive. Consequently, the amalgamation of both standards is deemed essential, according to this jurisprudential perspective, to ensure the efficacious consecration of human rights to the environment (Brandl & Bunger, 1992, op. cit., p. 32).

Chapter Two: The Comparative Constitutional Judiciary's Stance on the Potential to Establish the Right to a Healthy Environment as a Fundamental Constitutional Right

Numerous judicial applications of human rights to the environment underscore the role of the constitutional judiciary as an effective national mechanism for the consecration of this right and the preservation of human health and biodiversity, even within legal and constitutional systems that do not formally recognize individuals' right to a healthy and clean environment. In these systems, the judiciary's role transcends the obstacles arising from the reluctance or systematic refusal to accord constitutional value to this right, which may stem from economic considerations that often outweigh environmental concerns, or from the dominance of property rights over the right to the environment (Brandl & Bunger, 1992, op. cit., pp. 4-5).

Consequently, despite the absence of formal recognition of an individual's right to a healthy environment in some states, their constitutional judiciary has not faltered in imbuing this right with constitutional significance. This is achieved through its interpretation of other constitutional rights indirectly linked to the protection of individuals' rights to an appropriate and healthy environment, such as the right to life, the right to health, and the right to adequate housing.

Building upon the foregoing, and in light of the significance of judicial consecration as a fundamental step towards acknowledging the human right to the environment, this chapter will explore the stances of constitutional courts in countries adopting the Anglo-Saxon legal system regarding the constitutionality of the right to the environment ("First Section"), followed by a discussion in the "Second Section" on the stances of constitutional courts in countries embracing the Latin legal system concerning the constitutionality of the right to the environment.

Section One: The Position of Constitutional Courts in Countries Adopting the Anglo-Saxon Legal System Regarding the Constitutional Right to a Healthy Environment

Constitutional courts in nations that embrace the Anglo-Saxon legal framework have increasingly acknowledged environmental protection as a vital component of safeguarding public health and

welfare. Although environmental rights are not always explicitly enumerated in constitutions, courts frequently interpret them within the context of other fundamental rights, such as the rights to life, health, and property. Jurisprudence in the United States, the United Kingdom, and other countries adhering to the Anglo-Saxon system has seen rulings concerning governmental obligations to regulate pollution, preserve natural resources, and prevent environmental harm. This reflects a growing judicial recognition that environmental conservation is deeply intertwined with constitutional rights and sustainable development.

In this section, we will focus on the stance of the constitutional judiciary in the United States of America (Subsection One), and subsequently we will discuss the position of the judiciary in the United Kingdom (Subsection Two).

Subsection One: The Stance of the Constitutional Judiciary in the United States of America

Despite concerted efforts and intense discussions among legal scholars in the United States since the 1970s to enshrine a constitutional right to a wholesome and healthy environment, the U.S. Congress has persistently undermined these attempts. Although Congress has failed to incorporate an explicit recognition of the right to a healthy environment within the Constitution, several state constitutions have acknowledged the significance of granting constitutional status to environmental rights. Five states have explicitly enshrined the right to a good environment, while eleven other states have implicitly recognized this right (See Note 5).

In this context, in 2009, the Idaho District Court rejected a lawsuit challenging the scope of Congress's authority under the Clean Water Act regarding unauthorized groundwater injection, noting that the law did not impose criminal penalties for such actions. The plaintiff argued that the enforcement of the law was unconstitutional and exceeded Congress's authority under the commerce clause. Nevertheless, the court upheld the law, asserting that it fell within Congress's constitutional powers since the contested actions were deemed irrelevant to commerce.

The roots of this case can be traced back to the 1970s when the U.S. Congress enacted environmental legislation, particularly the Clean Water Act, to mitigate surface water pollution. However, to circumvent wastewater discharge permit regulations, some entities began injecting wastewater directly into underground aquifers. In response, Congress, exercising its delegated authority, passed the Safe Drinking Water Act, which mandates obtaining a permit for groundwater injections to safeguard drinking water. This law also empowers regulatory bodies to establish additional standards, provided they comply with federal criteria and receive approval from the Environmental Protection Agency.

The facts of this case reveal that an inspection conducted by the EPA found that a cattle rancher had injected surface water into groundwater wells without the necessary irrigation permits. The rancher contended in federal court that Idaho's groundwater law exceeded Congress's powers under the commerce clause, also claiming that his actions did not result in any discernible environmental harm. The Idaho court rejected this assertion, affirming that groundwater injection for irrigation constitutes an economic activity and falls within Congress's authority to regulate actions that impact commerce.

Ultimately, the court ruled that Congress had legitimately enacted Idaho's groundwater law to protect underground aquifers, necessitating the issuance of appropriate permits. Following an appeal, the Ninth Circuit upheld this judgment, adjudging the rancher guilty and remanding the case to the criminal court for charges related to unauthorized injection activities (United States Viking, 2009).

In a separate matter, specifically General Electric Co. v. Taxona, the United States Supreme Court, on January 6, 2016, deliberated the Environmental Protection Agency's (EPA) authority to mandate cleanup operations under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The genesis of this case stemmed from an obligatory administrative order issued by the EPA, compelling General Electric to execute waste remediation at one of its sites following unsuccessful negotiations regarding the cleanup methodology. According to Section 106 of CERCLA, absent an agreement, the EPA is empowered to issue unilateral orders, obligating responsible parties to undertake corrective actions, with the potential for substantial penalties in the event of non-compliance.

General Electric contested the order in the district court, asserting that CERCLA's provisions infringed upon its rights under the Fifth and Fourteenth Amendments, which guarantee due process. The corporation contended that these rights entitled it to an avenue for appealing governmental actions, a feature absent from the EPA's current proceedings. Citing prior Supreme Court rulings that affirmed the rights of corporate entities to due process akin to individuals, General Electric argued that the administrative process of CERCLA was unconstitutional. However, the district court ruled against General Electric.

Undeterred, General Electric appealed, contending that CERCLA compelled it into a dilemma: either comply with the EPA's costly orders or face exorbitant fines. According to General Electric, this situation effectively violated its property rights as enshrined in the Fifth and Fourteenth Amendments. The corporation further alleged that the EPA's orders engendered indirect financial losses, including diminished stock value, reputational damage, and elevated borrowing costs. General Electric maintained that the EPA's unbridled issuance of unilateral orders contravened due process and constituted an overreach of administrative authority.

Nevertheless, the court unanimously dismissed the corporation's claims, affirming that Section 106 of CERCLA provides opportunities for negotiation and defense before the imposition of binding administrative orders. Consequently, the court determined that the EPA's actions were consonant with constitutional standards and that CERCLA remained a legitimate expression of Congressional intent to safeguard the environment. The matter ultimately reached the Supreme Court, which upheld the lower court's decision and dismissed the appeal, thereby reaffirming the constitutionality of CERCLA (General Electric Co. v. Jackson, 2010).

Subsection Two: The Judiciary's Stance in the United Kingdom

In the United Kingdom, where a codified constitution explicitly guaranteeing individuals' rights to a healthy environment is absent, recourse to the judiciary has become a common avenue for asserting such rights. The system of judicial precedents serves as a pivotal instrument in safeguarding and upholding these rights.

Illustrative of this trend is the **“Budden”** case, wherein the parents of two children residing near a major thoroughfare brought suit against the oil company BP. They alleged negligence, contending that the addition of lead components to gasoline had adversely affected their children's intellectual development due to the detrimental effects of lead exposure from gasoline derivatives.

In his judgment, the administrative judge acknowledged the research demonstrating the psychological and cognitive harm associated with lead components but found the company not liable, as it had adhered to the maximum emission limits mandated by the Secretary of State and Parliament.

The judge further posited that even if the company were deemed responsible, issuing a court order to reduce emissions below the levels stipulated in environmental regulations would exceed the court's jurisdiction, thereby violating the principle of separation of powers. He underscored the necessity of deferring to Parliament's authority in setting permissible emission limits under environmental legislation.

The Court of Appeal affirmed this perspective, asserting that a judicial order prohibiting the addition of lead components to gasoline would effectively nullify the permissible emission limits established by environmental laws.

Notwithstanding, to preclude this discord, the House of Lords, esteemed as the apex judicial body in Britain, has, in analogous cases, acknowledged the absolute liability of the proprietor predicated upon the principle of foreseeable harm. This connotes that the owner's accountability is contingent upon the degree to which the potential for damage was anticipated and the measures undertaken to circumvent such detriment.

In a similar vein, the administrative judge, in the case of **“Cambridge Water Company v. Eastern Counties”,** recognized the manufacturer's liability premised on negligence. The judge's ruling was substantiated by the expectation that potential hazards to public health, or even the imminent threat thereof, arising from the accumulation of asbestos in the vicinity of the factory, were foreseeable by the company's proprietor, thus necessitating the implementation of requisite precautions to avert these detriments (Budden v. BP Oil, 1980).

The Second Section: The Stance of Constitutional Courts in Nations Adhering to the Latin Legal System

Constitutional courts within nations espousing the Latin legal system, such as France and Egypt, have been instrumental in affirming the right to a salubrious environment as a constitutionally safeguarded fundamental right. Numerous Latin legal systems explicitly acknowledge environmental rights within their constitutions, enshrining them as pivotal for the preservation of public health, human dignity, and intergenerational equity. This judicial posture has fortified governmental obligations to legislate and enforce measures that forestall environmental damage and guarantee sustainable development.

Within this section, we shall endeavor to elucidate the position of constitutional jurisprudence in France, delineated in the "First Subsection," subsequently transitioning to the "Second Subsection" to address the stance of constitutional jurisprudence in Egypt.

First Subsection: The Stance of Constitutional Jurisprudence in France

While the French Council has not overtly and explicitly recognized an individual's right to an appropriate environment within the constitution, it cannot be asserted that it has disregarded the indirect constitutional protection of this right. Despite its non-recognition of individual environmental rights, the Council, analogous to the U.S. Supreme Court, has deemed environmental protection a constitutional objective, pursuing the safeguarding of the public interest, thereby justifying constraints on certain constitutional rights.

Considering this, the French Constitutional Council has sanctioned the constitutionality of imposing limitations on constitutional rights for environmental protection, as articulated in Decision No. 85-189 concerning the law on the delineation and application of organizational principles.

Within this framework, in a case brought before the Constitutional Council, the plaintiffs sought a declaration of unconstitutionality against certain provisions regulating the protection of the environment and natural sites, alleging their incompatibility with the stipulations of the Declaration of the Rights of Man and of the Citizen, particularly Articles 2, 5, and 17, which pertain to private property and its attendant guarantees.

Nonetheless, the Constitutional Council rebuffed the claims on this matter, affirming the absence of any infringement upon the property right. It elucidated that the principle of equality does not preclude the existence of disparities in legal statuses, necessitating the application of diverse legal rules. Consequently, the legislature is empowered, in the interest of safeguarding the public good, as well as preserving natural sites and areas, to impose a series of restrictions and conditions to be enforced by local administrative authorities (Cons. Const., 1985).

Thus, in that case, the French Constitutional Council affirmed the constitutionality of imposing limitations on fundamental rights, such as the right to property, through a sequence of measures, the implementation of which the legislature has entrusted to the administrative authority, under defined legislative standards. Among these measures was the adoption of a land use plan by the municipal council, aimed at providing special protection to certain significant sites, thereby necessitating the implementation of a range of other crucial measures, including land subdivision and expropriation.

In another case, in Decision No. 2002-464 dated December 27, 2002, of the 2003 Finance Law, the plaintiffs presented an objection to the Constitutional Council regarding the constitutionality of Article 88 of the law.

This article stipulated the inclusion of Article L. 591-10-1 in the Environmental Code, mandating individuals and institutions distributing printed materials (advertisements and newspapers) free of charge in mailboxes and on public roads to contribute to the costs of collecting these materials or to pay an annual fee determined in the state budget. Furthermore, this article exempted numerous categories from this obligation, prompting the plaintiffs' concern.

In its deliberation on the constitutionality of this article, the French Constitutional Council decreed that the legislature may, in furtherance of the public interest linked to environmental protection, impose upon those distributing printed materials for their benefit the costs associated with their collection and circulation.

However, this must be executed while observing the principle of equality among individuals with equivalent legal statuses, ensuring that no unjustified discrimination occurs, one that is not founded on public interest or a direct nexus with the purpose of obligation, or a disparity in the legal statuses of the obligated parties (Cons. Const., 2002). Consequently, it is evident that the French Council, in this decision, deemed environmental protection a public interest that justifies the imposition of restrictions and regulations on constitutional freedoms and rights. This action marked the genesis of the constitutional affirmation of environmental rights in France.

Secondly, the Stance of the Constitutional Judiciary in Egypt

The Egyptian Constitution of 2014, as amended in 2019, explicitly incorporates constitutional provisions for the safeguarding of the climate and environment, as exemplified in Articles 44, 55, and 46, along with other relevant texts. The Egyptian constitutional judiciary, in contrast to certain comparative judicial systems, has been instrumental in elucidating the human right to a healthy environment (Egyptian Constitution, Article 44).

Among the cases presented before the Egyptian judiciary in this context is Case No. 2039 of 2006, the facts of which are as follows: the Public Prosecution accused the plaintiff in the misdemeanor Court of the port of Alexandria, alleging that on August 29, 2005, in his capacity as the person responsible for the company (,,,,,) for the manufacture of reinforcing steel, he had discarded materials (scrap iron and wood) into the waters of wharf (55) (Egyptian Constitution, Article 55) customs, thereby causing pollution (Egyptian Constitution, Article 46).

The Public Prosecution requested his punishment by the provisions of Law No. 4 of 1994. The court ruled to fine him 20,000 Egyptian pounds and to remove the effects of the pollution at his expense. The plaintiff did not accept the judgment and appealed before the Court of Misdemeanours of Appeal, where he contested the constitutionality of the two articles (69 and 72) of the Environment Law, and the court authorized him to file a constitutional case.

The plaintiff's counsel impugned Article 69, alleging a violation of the principle of equality and a deficiency in the formulation of punitive texts, contending its contradiction with the presumption of innocence. However, the Constitutional Council deemed the article unambiguous in prohibiting the discharge of polluting materials, stipulating a voluntary act, thus devoid of any obscurity or ambiguity.

Furthermore, the Council noted that the prohibition only applied to natural people representing the legal entity, ensuring the text's adherence to constitutional principles of criminal responsibility. The court affirmed that the penalty prescribed in Article 69 was commensurate with the nature of the offense, stipulating a fine ranging from L.E. 200 to L.E. 20,000.

Consequently, the Council held that Articles 69 and 87/2 did not contravene any other provision of the Constitutional Declaration, thereby necessitating the dismissal of the claim. Accordingly, the plaintiff's request for the nullification of the regulatory texts associated with Article 69 was rejected, and the court ruled to dismiss the lawsuit, forfeit the bond, and compel the plaintiff to bear costs and legal fees amounting to L.E. 200 (Case No. 2039, 2006).

Similarly, the judicial decision issued in case number 4492 of 1992, Misdemeanors of the Mahalla Al-Kubra Center, followed suit, the facts of which, summarized from the statement of claim and

other documents, reveal that the Public Prosecution had referred to the plaintiff for criminal trial. He was accused of discharging waste into waterways without obtaining a permit from the competent authorities on November 16, 1992, in the village of Al-Ameriya, affiliated with the Mahalla Al-Kubra Center. The Public Prosecution sought his punishment based on Articles 1, 2, and 16 of Law No. 48 of 1982 concerning the protection of the Nile River and waterways from pollution.

During the court hearing on November 4, 1993, the plaintiff presented a plea of unconstitutionality of Articles 1 and 2 of the law, and after assessing the seriousness of the plea, the court authorized him to file a constitutional claim. In the hearing of January 6, 1994, the court ruled to stay the proceedings pending a decision on the challenge to the constitutionality of Articles 2 and 16 of Law 48.

The plaintiff alleged that the contested Article 2 violated the principle of equal opportunity stipulated in Article 8 of the Constitution. However, this principle pertains to the opportunities that the state is obligated to provide, and its application requires competition among individuals for these opportunities, which does not apply to the contested text. Consequently, the claim of violation lacks a legal basis.

Furthermore, the plaintiff contends that Article 2 contravenes the provisions of Article 16 of the Constitution, which mandates the state's provision of health, social, and cultural services to its citizens, asserting that the state should have offered alternative healthcare options before penalizing its actions. However, this claim lacks a legal foundation, as the provision of such services necessitates the state's resources, which cannot be guaranteed to all citizens simultaneously.

Moreover, the plaintiff highlights that the prohibition on waste disposal in waterways is not absolute, with exceptions permissible under specific circumstances, subject to stringent legal regulations and standards. Thus, this prohibition applies universally without discrimination and does not constitute racial bias.

The court's ruling states that, based on the foregoing, the plaintiff alleges that Articles 2 and 16 of Law 48 of 1982 constitute discrimination against actions that occurred before criminalization. Nevertheless, actions proscribed by law remain punishable offenses if committed after the law's enactment.

Regarding the plaintiff's claims that Irrigation and Drainage Law No. 12 of 1984 repealed the provisions of Law 48, each law has its domain and does not conflict with the other. Consequently, the laws are compatible, and no conflict arises involving constitutional matters.

Accordingly, the court finds that the texts do not contradict the provisions of the Constitution and concludes by dismissing the lawsuit. It also orders the forfeiture of the bail and charges the plaintiff with the costs and attorney fees, amounting to L.E. 100 (Case No. 4492, 1992).

Through the course of this discourse, it is discerned that constitutional jurisprudence, across diverse legal systems and traditions, has assumed a prominent stance towards constitutionalizing the human right to a suitable environment, predating its explicit recognition in certain national constitutions. The absence of explicit textual provisions has not impeded the acknowledgment of

constitutional protection for rights unstated in constitutional documents. Instead, it has, through its own volition, endeavored to secure and guarantee such rights by establishing a form of implicit protection. Consequently, the fundamental rights recognized constitutionally serve as a safeguard for rights that are inadequately represented, thus bestowing upon individuals personal or subjective assurances. Ergo, the right to a healthful environment can attain parity with other fundamental rights, such as the right to life and the right to health.

6. Conclusion

The research undertaken elucidates that the roles of legal jurists and judicial figures have been pivotal in advancing the recognition of the right to a healthy environment as a fundamental human right, thereby influencing the formulation of legal frameworks and public perceptions concerning environmental protection.

- Jurists have established philosophical and legal underpinnings for acknowledging environmental rights as intrinsically linked to fundamental human rights, encompassing the rights to life, health, and dignity. This has catalyzed legislative action in various nations, prompting governments to incorporate explicit environmental protection within their constitutions and legal frameworks.
- The judiciary (different courts), acting as an enforcer of rights, has played a crucial role in materializing the constitutionality of the right to a clean environment. This was achieved through the establishment of numerous judicial precedents, which paved the path for nations to recognize it as a constitutional right.
- Legal doctrine (jurisprudence) and judicial interpretation have contributed to the evolution of the right to a clean environment from a conceptual aspiration to an enforceable fundamental right. Judicial interpretations increasingly mandate governmental obligations to uphold and safeguard environmental standards, often holding them accountable when environmental degradation jeopardizes the populace's quality of life. This transformation aligns with a deeper philosophical comprehension of well-being that transcends physical health, encompassing mental health, quality of life, and intergenerational equity.
- There exists a disparity in the explicit constitutional recognition of the right to a healthy environment across various countries and legal systems. Nevertheless, jurisprudential interpretations have bolstered the argument that this right is, in fact, already constitutionally enshrined. Courts and judges have consistently affirmed that a clean and healthy environment is indispensable for the enjoyment of fundamental human rights, thereby rendering environmental rights increasingly akin to constitutional entitlements rather than mere amenities.

7. References:

a) Notes

1) Concurrently with the substantive environmental rights, and to ensure their optimal enforcement, procedural environmental rights have emerged to delineate the pathway for the implementation and safeguarding of these substantive rights. As delineated within the draft principles concerning human rights and the environment, as formulated

by the United Nations Sub-Commission, these procedural environmental rights encompass the following:

- The entitlement of every individual to access environmental information is held by public authorities, on actions or procedures that may impact on the environment, without incurring financial burdens.
- The right of every individual to actively engage in environmental protection through participation in political decision-making processes related to the environment, which may have direct or indirect consequences on it
- The right to participate in environmental planning processes concerning the protection of the environment and human health, including the right to request environmental impact assessments for any project affecting the environment and human health.
- The right to seek legal redress and claim compensation, whether through judicial or administrative channels, in the event of environmental harm or even the threat thereof.

2) In this context, it is pertinent to observe a discernible proclivity within numerous constitutions toward the articulation of economic and social rights – representing the collective dimension of substantive rights – as a means of expressing the individual's environmental right, conspicuously omitting any reference to the individualistic aspect of substantive rights as embodied in civil and political rights. For instance, the Constitution of South Africa, in its Article 24, posits: "(a) Everyone has the right to an environment that is not harmful to their health or well-being; (b) Everyone has the right to have the environment protected, for the benefit of present and future generations." Similarly, the Portuguese Constitution, in Article 66, enshrines the "right of every person to a human, healthy, and ecologically balanced environment," alongside various other constitutions.
3) Regarding procedural environmental rights, specifically the right to environmental information and the right to participate in environmental decision-making, it is crucial to emphasize that the right to information encompasses the entitlement of every individual to access environmental information held by public authorities or entities entrusted with public functions and services. The scope of these rights extends beyond the individual, encompassing both natural and juridical people.
4) From another perspective, a segment of jurisprudence asserts that considering the individual when enshrining the human right to a healthy environment in the constitution—as one of the fundamental civil and political rights of individuals—imposes specific obligations on individuals, who are deemed the focal point of environmental protection afforded by these rights. This obligation is essential in combatting pollution, thereby ensuring optimal compliance with environmental safeguards as a result of the duties individuals bear in refraining from actions that could harm both the environment and public health. In return for the rights and privileges

granted through constitutional recognition of the right to a healthy environment, individuals are assured certain entitlements, including the right to seek judicial resources and claim compensation for damages incurred. This aligns with the overarching principle that all rights entail corresponding duties, and all duties encompass rights

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